INTRODUCTION

Law enforcement in a free and democratic society is the most difficult and challenging form of work. The Department fulfills an important functional and symbolic role in our community. We are charged with the ethical, just and humane enforcement of the law, delivery of quality service, and maintenance of public order. The community entrusts these responsibilities to use with a significant amount of authority.

The General Orders are designed to provide guidance to all members, sworn and non-sworn, and to establish a means of accountability to the public we serve and to each other.

The items included in this Manual have been thoughtfully selected and are designed to be anticipative in that they serve to guide future acts and decisions.

Our goal is for the General Orders Manual to become an important foundation for Department operations, providing clear direction and responsibility. This material will be a dynamic document, updated regularly to maintain professional standards to form the basis for selecting new members, evaluating work performance and rewarding excellence.

Steven D. McCulley, 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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ORGANIZATIONAL VISION, CORE VALUES, DEPARTMENT MOTTO

Organizational Vision:

We will perpetuate a strong work ethic that fosters pride in ourselves, in our careers, and in our Department. We will be a model agency; integrating the most suitable technology and proactively providing services. Our values will be reflected in the decisions we make and the actions we take. Additionally, we shall consider our responsibilities and obligations as a vital measure for every action within our Department.

We shall be attentive to the needs of by interacting, listening and responding to our citizens. We choose to go the extra mile and take the extra time to provide special service with a personal touch for our community. In essence, we will have a readiness to do without being asked and to do more than would be asked.

We will treat one another with respect and dignity, and resolve issues openly in a timely manner. We will always give each other the benefit of the doubt, creating a working climate of genuine teamwork and conscientious support.

Core Values:

We will constantly strive to attain the highest standards of honesty and integrity.

We will share ownership, as a team, for the outstanding service we provide to the community.

We will aspire to sustain a trusting work environment built upon dignity, courtesy and mutual respect.

We will always remain accountable to one another, our Department and our community for our performance.

We will appreciate that the origin and responsibility for leadership rests within each of us in the organization no matter what our rank or position.

We will endeavor to respect and honor those who have come before us and the traditions they have established, and to set an example for those who will follow.

We will increase and expand our personal and professional growth through continued education and involvement in our community.

Department Motto:

To Serve with Honor, Integrity, and Professionalism.

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Code of Ethics

100.1 PURPOSE AND SCOPE

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

100.2 POLICY

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

100.3 LAW ENFORCEMENT CODE OF ETHICS

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

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

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

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

100.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

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

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Law Enforcement Authority

101.1 PURPOSE AND SCOPE

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

101.2 PEACE OFFICER POWERS

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

101.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE ATHERTON POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the Atherton 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 except in cases of hot or fresh pursuit, while following up on crimes committed within the Town, or while assisting another agency.

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

101.2.2 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE ATHERTON POLICE DEPARTMENT

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

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

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

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

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

(e) In compliance with an arrest warrant.

101.2.3 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.

101.2.4 OREGON AUTHORITY

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

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

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

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

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

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

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Law Enforcement Authority

101.3 POLICY

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

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

101.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

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

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

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

101.5 CONSTITUTIONAL REQUIREMENTS

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

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Chief Executive Officer

103.1 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.

103.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

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

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Oath of Office

105.1 PURPOSE AND SCOPE

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

105.2 POLICY

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

105.3 OATH OF OFFICE

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

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

105.4 MAINTENANCE OF RECORDS

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

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Policy Manual

107.1 PURPOSE AND SCOPE

The manual of the Atherton 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.

107.2 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.

107.2.1 DISCLAIMER

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

107.3 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.

107.4 DEFINITIONS

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

Adult - Any person 18 years of age or older.

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

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Policy Manual

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

Town - The Town of Atherton.

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

Department/APD - The Atherton 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 Atherton Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

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

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

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

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

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

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

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

Shall or will - Indicates a mandatory action.

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

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

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

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

USC - United States Code.

107.5 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.

107.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

107.7 REVISIONS TO POLICIES

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

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

Each Watch 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 immediate supervisor, who will consider the recommendations and forward them to the command staff as appropriate.

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Chapter 2 - Organization and Administration

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Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 DIVISIONS

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

- Administration Division
- Patrol Division
- Investigation Division

200.3 GENERAL RESPONSIBILITIES OF ALL DEPARTMENT MEMBERS

(a) Uphold the provisions of the Constitution and the laws of the United States; the Constitution and laws of the State of California; and the appropriate ordinances of the Town of Atherton.

(b) Obey and carry out all lawful policies, procedures, and orders issued by the Chief of Police and other superior officers, whether written or oral.

(c) Maintain loyalty to the Atherton Police Department and the Department's mission as is consistent with the law, professional and personal ethics, and duties.

(d) Cooperate with other Department members, allied agencies, public officials and community organizations to maintain good working relationships as required in providing effective and efficient service.

(e) Protect life and property; maintain order; prevent crime; investigate crimes that have occurred; make legal searches, seizures, and arrests; apprehend criminals; recover and protect evidence and personal property; give first aid treatment for the sick, injured, and mentally ill; testify at judicial proceedings; provide assistance when needed, regardless of duty, status or assignment.

(f) Investigate and report any unlawful activity in their area of assignment and report all vice activities regardless of assignment. Advise their immediate supervisor of any significant or unusual conditions coming to their attention.

(g) Make an immediate written report to his/her immediate supervisor or Watch Commander officer of any bribe offer.

(h) Foster good public relations by treating the public with courtesy while reflecting the Department's commitment to public service and public safety. Give your full name upon request and furnish information or direction to the public regarding the Town.

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(i) Keep equipment and other Town property clean and in good condition. Immediately report, in writing, to his/her immediate supervisor or Watch Commander the loss or damage to any Town owned equipment.

200.4 GENERAL DUTIES OF COMMANDING OFFICERS, SUPERVISORS, AND WATCH COMMANDERS

(a) Supervise subordinates to improve their efficiency and quality of performance by:

1. Inspection, evaluation, and review of job performance and reports to ensure adherence to current policies, procedures, and orders;
2. Providing on the job instruction in the proper performance of assigned duties; and,
3. Providing the effective leadership, control, and directions conducive to effective performance and high morale.

(b) Assume responsibility for the proper conduct and discipline of his/her subordinates.

(c) Inform his/her immediate superior of any significant or unusual condition(s) existing in the Department.

(d) Affirmatively promote Departmental goals, ideals, policies and directives in order to enlist cooperation from line-level service providers.

(e) Officers who are in-charge of a shift are not to approve reports. Unless exigent circumstances are present, reports will be held for the next available Sergeant.

200.5 OFFICE OF THE CHIEF

1. Chief of Police:

- The duties and responsibilities of the Chief of Police are defined in the Town of Atherton's Comprehensive Employment Guide and the Government Code of California. These duties and responsibilities are: planning, organizing, directing and controlling activities of Department personnel in preserving order, protecting life and property, and enforcing laws; formulating and enforcing rules, procedures and policies for efficient operation of the Department; and recommending appointment and promotion of employees.

200.6 COMMAND STAFF

1. Commander:

- A Commander is the commander of a division (Administration, Field Operations), who directs law enforcement activities and assists the Chief on an assignment basis. The Commander assigns and supervises the work of subordinates in performing patrol, and/or investigation, or administration duties. The Commander assists with planning, organizing, and directing activities within his section or division and supervises the work of personnel assigned to the division for which he is responsible.

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Organizational Structure and Responsibility

- The Commander shall plan, organize, and direct the activities of a division, carry out other duties as assigned by higher authority, and be accountable to the Chief of Police. In addition, the Commander assumes command of the Department in the absence of the Chief of Police.

2. Sergeant:

- A Sergeant is a first line supervisor who may be assigned to be in charge of a shift or detail in the Department. The Sergeant shall be responsible for the officers and employees assigned to him/her. The Sergeant is directly responsible to the Commander. Though not formally a part of the Command Staff, a Sergeant acts as a Watch Commander and is a member of the Department's management team.

3. Public Information Officer (PIO);

- The Public Information Officer is responsible for calls relating to public information and the dissemination of information to the news media and the general public. He/she is also directly responsible for the release of all information to the press and public in matters concerning the Atherton Police Department.
- In the absence of a Public Information Officer, the on-duty Watch Commander shall act in his/her place. Public information may also be disseminated in the following order:
    - Chief of Police.
    - Commander.
    - Watch Commander.
    - Officer-in-Charge.

4. Internal Affairs Investigator:

- At the direction of the Commander, the Internal Affairs Investigator conducts detailed investigations relating to misconduct by members of the Department; conducts administrative investigations relating to officer-involved shootings and use of force by Department members; prepares necessary reports as required for administration of disciplinary action.

5. Executive/Administrative Assistant:

- Directly responsible to the Chief of Police. The Executive/Administrative Assistant composes correspondence pertinent to Department activities; schedules and manages appointments for the Chief of Police; maintains confidential personnel files; prepares documents relating to internal investigations; schedules all police training for Deptartment personnel; prepares agendas as directed; relieves the Chief of Police and Commander of routine office details; maintains confidential and administrative files.
- May, upon the direction of the Chief of Police, be responsible for serving as the Lexipol Manual Coordinator by receiving, reviewing, and editing new or revised operating

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procedures. The Lexipol Manual Coordinator shall continually update the Lexipol Manual as required and assure distribution is complete.

200.7 WATCH COMMANDER

The Watch Commander, during his/her tour of duty, exercises the collective authority of the Department Command Staff as to the operations of Department functions. In absence of a designated Watch Commander, the senior available sworn member of the watch is in-charge until relieved by higher authority. In addition to the general and individual responsibilities of all members, the Watch Commander performs the following duties:

(a) Inspect work areas, scenes, operations and personnel performing their duties during the watch to determine all is in good order. The general good order during his tour of duty will include proper discipline, conduct, welfare, in-service field training and efficiency of Department personnel.

(b) Summon, assign, and direct Department members, regardless of their normal duty assignment, as needed for containment, resolution, or relief of personnel assigned to any critical incident, unusual occurrence, major disaster, or enforcement action, including the investigation of major crimes. The Watch Commander will be responsible for compliance with established personnel call-out procedures prescribed by each division, unit or section.

(c) Oversee, coordinate and direct any enforcement action involving Department members in the absence of a superior officer.

(d) Relieve from duty assignment personnel unfit for duty for any reason.

(e) Meet county protocol agreements relating to officer-involved shootings, vehicle pursuits, and mutual-aid requests.

(f) Issue press releases and establishes press liaison during critical incidents, unusual occurrences, or major disasters.

(g) Inquire into personnel complaints against members under his/her command, in accordance with the provisions of this Manual.

(h) Apprise members of the Command Staff, via an E-Mail, memorandum, or telephone call, of significant information coming to the Watch Commander's attention during the watch.

200.8 ORGANIZATIONAL STRUCTURE

200.8.1 OPERATIONS DIVISION/FIELD SERVICES

1. Commander:

- Manages and coordinates all units and sections of a division. Prepares annual budget for his/her division, assigns personnel, evaluates performance of subordinate personnel, and administers discipline.

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Organizational Structure and Responsibility

2. Sergeant:

- Supervises patrol activities during shift, assigns and directs personnel, inquires into personnel complaints, deploys personnel and resources in response to crimes-in-progress and unusual incidents, reviews reports, evaluates and trains personnel, and acts as Watch Commander as required.

3. Police Officer:

- Performs responsible law enforcement and crime prevention work, i.e., patrolling assigned areas, answering calls for service, handling complaints, making preliminary investigations of crimes, preparing reports, gathering evidence for court, serving warrants and civil papers, making arrests, performs follow-up investigations, and acts as a Watch Commander as required.

4. Field Training Program:

- Experienced Police Officers, working under the supervision of an assigned Sergeant, assigned to train newly assigned officers in the successful performance of their duties as patrol personnel.

5. Training Manager:

- The Training Manager is responsible for initiating and scheduling training programs within the Department. The Training Manager's assignment includes those training issues related to all members of the Department.

6. Rangemaster:

- The Rangemaster is responsible for initiating and conducting firearm training programs within the Department. It is his/her duty to conduct and supervise the pistol range, as well as develop plans for a continuous training program to see that all personnel of this Department meet the minimum qualifications for training.

7. Special Teams, Programs and Units: The Department operates several specialized units for deployment of trained personnel and resources to meet specific needs. Most assignments to these positions are secondary to a member's primary assignment. These teams and units include:

- Volunteer / Reserve Police Officer Program.
- Canine Patrol Officer.
- Hostage Negotiation.
- Bicycle Patrol.
- Extra Help and Reserve Officers.

200.8.2 ADMINISTRATIVE SERVICES DIVISION

1. Commander:

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Organizational Structure and Responsibility

- Manages and coordinates all units and sections of a division. Prepares annual budget for his/her division, assigns personnel, evaluates performance of subordinate personnel, and administers discipline.

2. Detective:

- Performs routine and complex followup investigations of narcotics, juvenile crimes, criminal intelligence, burglaries, thefts, sexual assault, child abuse, assaults, homicides and other major crimes. Conducts interviews with witnesses and suspects, collects evidence, recovers property, prepares cases for prosecution in court, makes legal arrests, searches and seizures, writes detailed investigative reports, coordinates investigative efforts relating to missing persons, conducts follow-up as necessary to clear missing persons cases, works with community crime prevention programs, and prepares crime and supplemental reports.

3. D.A.R.E.:

- Officers assigned to teach Drug and Alcohol Resistance Education programs in schools within the Town of Atherton.

4. School Resource Officer (S.R.O.):

- Is assigned to schools within the Town of Atherton and acts as a liaison for the department. The S.R.O. may assist the on-duty patrol staff by investigating crimes that occur on campus. Additionally, the S.R.O. may be charged with the responsibility of filing school crime reports with the appropriate court. The S.R.O. will be actively engaged in communicating with school officials, probation authorities, court personnel and Department staff.

5. Community Services Officer:

- Civilian personnel assigned to community outreach programs publicizing Department services and crime prevention education, manages and schedules vehicle and equipment maintenance and repair, and assist in property clerk duties. Acts as a Court Officer.

6. Communications and Records Supervisor(s):

- Plans, organizes, directs and manages the activities of the Communications and Records Unit including managing the communications center and CAD/RMS/ CLETS systems. Coordinates public safety dispatch with other divisions, agencies and departments. Receives and dispatches radio and telephone communications, dispatches public safety personnel and equipment during emergencies in a coordinated manner, monitors public safety frequencies. Provides highly complex staff assistance to sworn personnel, plans, organizes, supervises and participates in the work of the records function of the unit. He/she performs responsible clerical work and assigns and reviews the work of subordinates, establishes and maintains office records and files, collects fees for licenses and services, gathers statistical

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data, and compiles reports. Performs various clerical tasks relating to the collection, storage and dissemination of crime reports and citations, makes data entries into the Records Management System, collects fees for various reports and permits, acts as receptionist for the office during normal business hours.

7. Public Safety Dispatcher:

- Receives and dispatches radio and telephone communications, dispatches public safety personnel and equipment during emergencies in a coordinated manner, monitors public safety frequencies, maintains office records and files, collects fees for licenses, permits and services, gathers statistical data and compiles reports, performs various clerical tasks relating to the collection, storage and dissemination of crime reports and citations, makes data entries into the Records Management System, collects fees for various reports, licenses and permits, act as receptionist for the office during normal business hours, completes related work as required.

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Organizational Definitions

201.1 DEFINITIONS

(a) **Department**: The Department of Police is a Department of the Town of Atherton and is referred to in this publication as the Police Department or Department.

(b) **Division**: A division is a functional subdivision of the Department and is normally directed by a Commander.

(c) **Section**: A section is a functional subdivision of a division and is normally directed by a first line supervisor.

(d) **Unit:** A unit is a subdivision of a section and is normally directed by an officer on an assignment basis.

(e) **Detail**: A detail is a specific task assignment of one or more Department employees who report to a division supervisor. The assignment may be temporary or permanent.

(f) **Watch**: A designated span of time within a 24 hour period during which personnel are engaged in the performance of their assigned duties.

(g) **Beat**: A geographical area of size by which one or more officers are assigned for patrol purposes.

(h) **Post**: A fixed point or location by which a Department employee is assigned for duty.

(i) **Shift**: A shift is a period of the day during which police personnel are assigned for duty.

(j) **Chain of Command**: The unbroken line of authority extending from the Chief through a subordinate at each level of command to the level of execution.

(k) **Personnel**: An all inclusive term to denote anyone in any capacity, which is employed by this Department.

(l) **Sworn Member**: Law enforcement personnel appointed to the Department on a full-time, paid basis, and duly sworn as peace officers (Penal Code § 830.1).

(m) **Non Sworn Member**: All other personnel.

(n) **Volunteer Reserve**: Any person who is a member of the Atherton Police Volunteer Reserve Officer Program (Unpaid volunteer PenalCode § 830.6).

(o) **Per-Diem Police Reserve Officer**: Paid part-time Police Officer (Penal Code §§831, 830.6).

(p) **Command Officers**: Members of the Atherton Police Department who hold the rank of Commander or above.

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Organizational Definitions

(q) **Commanding Officer**: Commanders are defined as personnel who are in command of the Department, division, section, or unit, and who have direct control over all members and employees assigned thereto.

(r) **Officer-in-Charge**: The term used for any member in charge of any division, section, unit, detail, activity, or function by virtue of his rank, seniority, or designation by the Appointing Authority.

(s) **Supervisor**: Personnel with delegated authority that oversee or supervise others in the accomplishment of their assigned tasks. A supervisor may be at any level or position.

(t) **Grade or rank of members**: Personnel in this Department shall be given rank or grade according to the provisions of the City Ordinances and policies.

(u) **Absence of the Chief**: In the absence of the Chief, and unless otherwise designated, the responsibility for the operations of the Police Department shall succeed in the following order:

1. Commander.
2. Sergeant.
3. Officer.

(v) **Seniority**: When a question of seniority may arise, such seniority shall be determined first by rank and second by continuous service in rank.

(w) **Appointing Authority**: In this manual is referred to as the Chief of Police.

(x) **Pronouns**: The personal pronoun (him) of the masculine gender shall apply equally to the feminine gender, when appropriate.

(y) **Authority**: Ranking officers having authority to carry out Departmental policy who shall supervise the work of various divisions, sections and units are named in rank in the following order of succession:

1. Chief.
2. Commander.
3. Sergeant.
4. Senior O.I.C.
    (a) The ranking officer shall exercise the authority of his position under all conditions which require the use of such authority in the best interests of the Department.

(z) **Officers of equal rank**: Where two or more officers of equal rank are working together on the same assignment or detail, such authority shall not be exercised except in a situation necessitating it, unless one member has been designated as in command.

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Organizational Definitions

201.2 OTHER TERMINOLOGY

(a) **General Orders Manual**: Contains the rules and regulations governing the conduct of personnel and the operation of the Police Department. General Orders are written directives issued by the Chief of Police. General Orders remain in full force and effect until amended, canceled, or suspended. They are the most authoritative directive issued by the Police Department and may be used to amend, supersede, or cancel any other rules, regulations, or orders. Compliance with the provisions of the General Orders Manual is required. The General Orders Manual shall govern reserve members insofar as it applies.

(b) **Divisional Orders**: Are issued by Division Commanders as necessary for the delineation of policies and procedures required for the effective and special operations within that division.

(c) **Special Orders**: Written directives issued at Departmental or Divisional level by the Chief or Police, division or section head to give specific instructions governing a particular situation. Special orders are automatically canceled when their objectives are achieved. Departmental special orders affect the entire Department. Divisional special orders are effective only within the division in which issued. A copy of all divisional special orders shall be forwarded to the Chief of Police.

(d) **Lawful Orders**: Any written or oral directive issued by a superior officer to any subordinate, or group of subordinates, in the course of duty which is not in violation of any law, ordinance, or Departmental rules and regulations.

(e) **Training Bulletin**: Bulletins are regularly published by the division training personnel which are designed to keep the officers of this Department abreast of current law enforcement techniques and procedures. The bulletins act as a continuous training program and as a stimulus for further study. The information contained therein constitutes official Departmental policy on the subject matter under consideration in the absence of other instructions to the contrary.

(f) **Beginning of Day and Week**: The Department day, for recording purposes, shall begin at 0001 hours and shall conclude at 2400 hours. The Police Department's week, for recording purposes, shall commence each Sunday at 0001 hours. Any exceptions to the day and week established for recording purposes will be in the form of a written directive.

(g) **Workday**: The day in which a member is directed to perform his duties. In cases where a member is detailed to consecutive hours of duty, which cover portions of two successive days, the day commencing work shall be considered for recording purposes to be his "workday".

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Organizational Definitions

(h) **Right**: In reference to conditions of employment, the term "right" shall designate those conditions specifically outlined by state or federal law, City Ordinance or personnel rules.

(i) **Privilege**: Employment conditions that are not rights, but are granted at the convenience of the Police Department.

(j) **Shall/Will**: Indicates that action is mandatory.

(k) **May**: Indicates that action is permissive.

(l) **Should**: Indicates that action is encouraged.

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Discretion

202.1 POLICY

Department members must continually make discretionary decisions while providing law enforcement services to our community. There is a responsibility to oneself, the Department, the Town, and the community in the exercise of discretion. The proper exercise of discretion is bounded by rules and principles of law, and is not arbitrary, capricious, or unrestrained. Department members must continually demonstrate sound judgment in their exercise of discretion in order to ensure the safety and security of the public is properly protected.

202.2 PROCEDURE

1. Exercising Discretionary Judgment:

- Department members will exercise discretionary judgment in a reasonable manner, and remain within the limits of their authority, as defined by statutory law, court decisions, and Department and Town regulations, policies and procedures.

2. Knowledge of Laws and Regulations:

- Every member is required to maintain a working knowledge of laws and ordinances; and, of regulations, policies, and procedures prescribed in the Department General Orders, Town policies, Divisional Orders, directives, and Special Orders of their unit.

3. Purpose of Policies, Procedures, and Regulations:

- The policies contained in this manual and through various directives issued by the Department are intended to set out the standards for conduct, and to delineate the performance objectives expected of the members of this Department. The complexity and wide variety of influencing factors affecting the manner of handling and disposition of the various services provided by the Department make it impractical to develop written procedures to cover each situation. When no such specific procedure has been prescribed, each Department member is required to use initiative, common sense, and discretion, supported by the proper application of the law and reasonable cause.

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Departmental Directives

204.1 PURPOSE AND SCOPE

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

204.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

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

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

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

204.1.2 DEPARTMENTAL DIRECTIVE PROCEDURES

1. General Orders: General Orders are issued by the Chief of Police to announce the adoption or revision of policies, and to direct procedures for the indefinite future. Examples:

- Institution of permanent procedures, rules, policies, and manuals related thereto.
- Permanent changes in organization, use of facilities, and equipment.
- Installation of permanent programs which affect more than one division, or relationships with other agencies and citizens.
- Permanent personnel policies and procedures.

2. Divisional Orders/Section Orders/Unit Orders: These orders are issued by Division Commanders as are necessary for the delineation of policies and procedures required for the effective performance, and special operations, within that division.

3. Special Orders: Special Orders are issued to announce policies or direct procedures concerning a specific circumstance or event, or information that is of a temporary or self canceling nature. The following are examples:

- Specific instructions to accomplish a particular objective, which, once accomplished, there will be no need for continuing instructions. For example, renumbering or assignment of vehicles.
- Temporary procedures designed to cover a special occurrence or event which is of a temporary or short termed nature. Examples:

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- Instruction for the use and deployment of manpower to a particular public gathering.
- Assignment of and special instructions for personnel in training programs, firearms qualifications.

4. Personnel Orders: Personnel Orders will be issued to direct the assignment personnel, the transfer of personnel, and the promotion or demotion of personnel.

5. Instructional Material: This category will include instructional and training material usually found in manual form. Instructional material can include training guides and training bulletins.

6. Memorandum: Orders below Departmental level will be issued in memorandum form, or by use of the Town E-Mail system. Memorandum will be issued for the following purposes:

- To disseminate information or instructions which do not warrant a general or special order.
- To direct the actions of subordinates in specific situations or circumstances under a level of command not authorized to issue general or special orders. Such directions shall not deviate from, or conflict with, established policies and procedures as documented by higher authority.

204.1.3 ISSUING AUTHORITIES

1. General Orders: The Chief of Police shall issue all General Orders.

2. Divisional, Sectional and Unit Orders: Division Commanders will issue these orders.

3. Special Orders: The Chief or Division Commanders will issue Special Orders.

4. Personnel Orders: Personnel Orders will be prepared and issued with the permission of the Chief of Police.

5. Memorandum: Any member of the Police Department may prepare Memorandum.

6. Instructional material: Including Training Bulletins, may be issued at the Departmental, Divisional, or Sectional level.

204.1.4 DISTRIBUTION

(a) The distribution will be noted on each order.

(b) Departmental orders will be sent to each organizational unit of the Department. All levels of command will send copies of orders issued by them to the organizational units and personnel affected by their content.

(c) The Administrative Assistant will maintain a supply of General Orders on disk to fill reasonable requests for those missing, lost, or destroyed.

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Departmental Directives

204.1.5 MAINTENANCE AND RETENTION

(a) The Administrative Assistant for the Chief of Police will maintain:

1. A master file of all Departmental orders, except Personnel Orders.

2. A file of Divisional Orders.

(b) The Administrative Services Division will maintain a permanent master file of Personnel Orders.

204.1.6 INDEXING

(a) Orders and memorandum shall be numbered consecutively with a prefix consisting of the last two digits of the year, i.e., 07-1, 07-2, etc.

(b) Each General Order shall receive a lettered section code, consisting of letters and numbers.

204.1.7 CANCELING AND AMENDING ORDERS

(a) The authority to amend or cancel an order is restricted to the issuing command or higher authority.

(b) An amendment to an order shall be issued to change, cancel, or add a provision, procedure, or information.

(c) An order will be amended either by:

1. Canceling the order and issuing a new order. The cancellation of an order shall also cancel all amendments to the order.

2. Issuing just the amendment which will have the same identifying number as the original order.

(a) Amendments will be filed with the order amended.

(b) The format of an amendment will be consistent with the format of the order it amends.

(d) All Divisional Orders, Special Orders, Instructional Material, and Memoranda, which are not self-cancelling, shall be reviewed annually, under the direction of the Commander, to determine if they should be cancelled, amended, incorporated into a manual, or continued in their present form.

204.1.8 PATROL BULLETIN

The Department Patrol Bulletin shall be published at the beginning of each shift by the Dispatch Center. This bulletin shall be available to each member of the Police Department, and personnel shall thoroughly familiarize themselves with its contents. Also, when returning from days off, leave or vacation, personnel shall read all bulletins published during their absence, and shall be accountable for the contents thereof.

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(a) The Patrol Bulletin shall include the following information:

1. Notices advising personnel of bulletins issued through other sources that require their review.
2. The name and description of wanted persons, missing persons, escapees, and runaway juveniles.
3. Cancellations and corrections of previously published information.
4. A summary of pertinent information regarding major crimes reported to the Police Department.
5. The names of arrested persons and the offenses charged.
6. The name(s) of the investigating officer(s).
7. The report case number.
8. Officer safety information.

204.2 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 in writing the receipt and review of any new Departmental Directive. Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Training Manager.

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

205.2 EMAIL RIGHT OF PRIVACY

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

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

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

205.3 PROHIBITED USE OF EMAIL

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

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

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

205.4 EMAIL RECORD MANAGEMENT

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

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Electronic Mail

The Custodian of Records shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy.

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Atherton Emergency Operations Plan

207.1 PURPOSE AND SCOPE

The Town of Atherton has prepared an Emergency Operations Plan (EOP) 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).

207.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Operations Plan can be activated in a number of ways. For the Police Department, the Chief of Police or the highest ranking official on duty may activate the Emergency Operations Plan in response to a major emergency.

207.2.1 RECALL OF PERSONNEL

In the event that the Atherton Emergency Operations Plan is activated, all employees, not currently at work, are subject to immediate call-in. Employees may also be subject to call-in 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.

207.3 LOCATION OF THE PLAN

The Emergency Operations Plan manual is available in Administration and the squad room office. All supervisors and Watch Commanders should familiarize themselves with the Emergency Operations Plan and what roles police personnel will play when the plan is implemented.

207.4 UPDATING OF MANUALS

The Sergeant assigned to Disaster Preparedness shall review the Emergency Operations 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). The Disaster Preparedness Sergeant should appropriately address any needed revisions.

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Training Safety Policy

208.1 POLICY

It shall be the policy of the Atherton Police Department to comply with POST guidelines, and to conduct all training in such a manner as to promote an attitude of safety among instructors and students alike. Concern for safety is contagious and can only result in a reduction of risk.

The efforts of all personnel involved in training shall be directed toward ensuring a safe atmosphere within which a maximum training benefit can be realized.

208.2 PROCEDURE

The following sections deal with the responsibilities each member of this Department hold in regards to training safety.

208.2.1 TRAINING MANAGER RESPONSIBILITIES

(a) The Training Manager shall provide advance notice to prospective trainees of the anticipated physical demands and/or physical performance expectations. Additionally, the Training Manager shall provide advance notice if specialized safety equipment will be required.

(b) Instructors shall be provided with a copy of the specific safety guidelines pertaining to their course of instruction prior to the commencement of their class.

(c) The Training Manager or their designees shall ensure that emergency communications (phone, radio, or other means) are accessible at all training sites.

(d) At least one member of the instructional staff, either directly involved in the training event or immediately available at the training site, shall be trained in First Aid and CPR.

(e) When planning a training event, the Training Manager or designee shall identify which medical facilities and emergency services are available to call in the event of an emergency or injury.

208.2.2 INSTRUCTIONAL STAFF-TO-STUDENT RATIOS FOR POST CERTIFIED COURSES

(a) Factors considered in establishing these ratios included, but were not limited to:

1. The intensity or pace of the training experience.
2. Student familiarity with the material.
3. Characteristics of the training site.
4. Injury potential.
5. Active versus passive participation.

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(b) For the purposes of establishing an instructional staff-to-student ratio, the following personnel titles and descriptions are viewed by the Atherton Police Department as exerting functional supervision over students in training. Primary/Lead Principal Instruction in addition to:

1. Specialty Coordinator.
2. Course Coordinators.
3. Rangemasters.
4. Defensive Tactics Instructors.
5. Field Training Officers.
6. SWAT team members.

(c) The specific ratios are identified in each training subject file, i.e. driver's training would be a maximum of 7 instructors to 18 students. The ratio for any psychomotor skill will always have 2 instructors per 10 students.

(d) Reassessment of the staff-to-student ratio will be initiated when curriculum changes are proposed or when course structure is otherwise modified.

208.2.3 INSTRUCTOR RESPONSIBILITIES

Any defensive tactics or similar training which necessitates the use of firearms shall be taught utilizing department authorized "red guns", or functional equivalent. Under no circumstances shall training occur using authentic firearms pointed toward any individual. Additionally, all firearms, magazines, loaders and ammunition are to be excluded from the training area. Practice of anticipated live-fire exercises is exempt from using red guns, provided no firearms will be pointed toward any individual.

(a) The primary instructor or designee shall be responsible for conducting safety inspections of all trainees, their equipment and facilities used for training prior to the initiation of each training event.

(b) Instructors should be aware of environmental factors such as weather, air quality, and/or other elements/events and adjust the instruction as necessary.

(c) The primary instructor or designees shall verbally review specific safety rules with students prior to beginning subject instruction.

(d) Specific safety rules shall be incorporated into lesson plans. Copies of safety rules shall be distributed to students as part of the course handouts. Coordinators are responsible for giving these to the Training Manager.

(e) Instructors shall adhere to the expanded course outline as submitted to POST. Instructors shall also adhere to their lesson plan as approved by the Training Manager and/or POST.

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(f) Instructors shall advise students of their responsibility to report and/or stop unsafe actions during training.

(g) Instructors shall display an attitude of safety and a professional demeanor at all times.

208.2.4 STUDENT RESPONSIBILITIES

(a) Members of the Atherton Police Department shall immediately notify the Course Coordinator or the Training Manager of any known pre-existing medical condition, which is likely to be aggravated by, or affect performance during training.

(b) Members of the Atherton Police Department shall be required to provide evidence of medical or physical fitness for training if the instructor questions their ability to perform safely.

(c) Members of the Atherton Police Department shall immediately notify a member of the Training Staff of any injury sustained during training.

(d) Members of the Atherton Police Department are responsible for adhering to all safety requirements of individual courses.

(e) Members of the Atherton Police Department will not consume any alcoholic beverages during training. Members shall not consume intoxicants while off duty to the extent that evidence of such consumption is apparent when reporting for scheduled training, or to the extent that their ability to perform is impaired.

(f) Members or officers of allied agencies participating as students in an Atherton Police Department sponsored training course will adhere to these same standards.

208.2.5 RESPONSE TO INJURIES

In the event of an injury, the following actions shall be taken as necessary:

(a) Render first aid.

(b) Obtain appropriate medical assistance.

(c) Members of the Atherton Police Department who sustain an injury, which requires treatment by a physician, must obtain a medical release before they will be allowed to resume training.

(d) Notify the Training Manager and/or the Commander immediately.

(e) Investigate and complete an accident report using the appropriate reporting form(s). The Commander may delegate the investigation when appropriate.

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Training

209.1 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.

209.2 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).

209.3 OBJECTIVES

The objectives of the Training Program are to:

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

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

(c) Provide for continued professional development of department personnel.

(d) Ensure compliance with POST rules and regulations concerning law enforcement training.

209.4 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:

(a) Legislative changes

(b) State mandated training

209.5 TRAINING NEEDS ASSESSMENT

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

209.6 TRAINING PROCEDURES

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

1. Court appearances

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

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

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

209.7 DAILY TRAINING BULLETINS

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

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

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

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

209.8 AUDIT OF THE TRAINING PROGRAM

An audit of the training program will be conducted by the Commission on Peace Officer Standards and Training (P.O.S.T.) every two years.

209.9 POLICY

The Department 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 to provide continuing education and training for the professional growth and development of its members.

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Training

209.10 TRAINING MANAGER

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

209.10.1 TRAINING RESTRICTION

The Training Manager 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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E-mail, Internet, and On-line Service Use Policy

210.1 PURPOSE

The Town of Atherton provides E-Mail, on-line and Internet access to certain Town employees to assist in carrying out Town business. This policy sets forth the Town of Atherton's policies with regard to access to, use of, and the disclosure of on-line, E-Mail, and Internet services.

210.1.1 SCOPE

This policy covers all employees who have access to the Town of Atherton's electronic mail system, the Internet, and on-line services. Town on-line accounts are Town property that is provided to be used only for general business purposes to increase production and employee effectiveness. To ensure the use of Town E-Mail, Internet and on-line systems in a productive manner, a list of guidelines has been established. All employees are required to abide by these guidelines. The improper use of Town E-Mail, Internet and on-line systems is not acceptable, and is subject to the applicable disciplinary procedure.

210.1.2 USER RESPONSIBILITIES

Consultants:

Use of the Town's E-Mail system by non-Town employees under contract for services within Town departments may be authorized by the Department. The Department head will sponsor the contract employee, and request, in writing, the person be given access to the E-Mail system. A completed "Non-Town Employee Participation Request Form" must be signed by the Department head, City Manager, and participating contract employee. Termination of the contract will also serve as termination of access.

Policy Document:

It is the user's responsibility to:

- Read and adhere to the adopted E-Mail, Internet, and On-Line Service Use Policy,
- Sign the E-Mail, Internet, and On-Line Use Policy Employee Agreement Form, and
- Return the completed form to the Personnel Department to be filed in the employee's personnel file.

Mail Use:

The dual nature of electronic mail - immediate and informal like a telephone call, irrevocable like a memorandum - along with the possibility of anyone monitoring and managing staff member's messages for them, requires that you yourself explicitly recognize your responsibility for the content and dissemination of your messages.

Your outgoing messages are to be:

- Accurate.

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- Courteous.
- Sent to selected staff with a need to know.

Your incoming messages are to be:

- Filed and disposed of appropriately (Retain public records for at least two (2) years.)
- Responded to on a timely basis, as identified in the original message.

Electronic Mail Retention:

- E-mail messages are often public records and should be treated as such.
- Because e-mail is not an optimal archival or retention system, if the retention of a message is important, as a sender and/or receiver, you should print a hard copy of the message and file it appropriately.
- If you intend to retain a message in the e-mail system for more than a short period of time, you should store that message in an appropriate e-mail file where it will be retained for at least two (2) years. Proper maintenance of e-mail messages is essential to an effective public records system.
- you should regularly (i.e., at least monthly) review your unfiled e-mails, including those in the "Sent Items" and "Deleted Items" files and insure that a back-up is retained on the network server for at least two (2) years.
- At least annually, you should delete all e-mail messages over two (2) years old which have not been stored electronically or printed as a hard copy.

Note: You are responsible for protecting the confidentiality rights of others. Be sure to ensure that your password is secure and change it when appropriate. If you allow other staff members to send or receive messages on your e-mail account, you are responsible for their content.

210.1.3 ON-LINE SYSTEMS POLICIES

Monitoring Usage:

The Town reserves the right to monitor usage patterns of its on-line communications. The reasons for monitoring are to insure on-line productivity, as well as for better planning and management of network resources.

Blocking of Internet Access:

The Town reserves the absolute right to block access to certain Internet sites.

210.1.4 OWNERSHIP OF ELECTRONIC COMMUNICATIONS

All communication over Town E-Mail, Internet, and on-line services are the property of the Town. All messages created, sent, or retrieved over the Town E-Mail, Internet, and on-line services are the property of the Town. Employees should not assume electronic communications are totally private. The Town reserves the absolute right to access and monitor all messages and files on the Town E-Mail, Internet, and on-line services.

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210.1.5 MAINTAINING A HOSPITABLE ENVIRONMENT

To ensure the Town E-Mail, Internet, and on-line services remain a productive and stable environment, the transmittal, intentional retrieval, or any subsequent or retrieved storage of information that is discriminatory, harassing, obscene, pornographic, or X-rated is not permitted. The use of Town E-Mail, Internet, and on-line services for personal gain, or any other purpose which is illegal or against Town policy or contrary to the Town's best interest, is not permitted.

210.1.6 AFTER HOURS USAGE

Town E-Mail, Internet, and on-line services may be used for personal purposes during non-standard hours or off- duty time, as long as the use is consistent with this policy.

210.1.7 NON-DISCRIMINATION

The transmittal of messages with derogatory or inflammatory remarks about a person's race, color, sex, age, disability, religion, national origin, physical attributes, and/or sexual preference is not permitted.

210.1.8 CONFIDENTIALITY

Communication of messages disclosing trade secrets is prohibited. You should recognize your position with the Town requires considerable responsibility and trust. No messages disclosing sensitive, confidential, restricted, non-public, or private information can be transmitted over the Town E-Mail, Internet, or on-line services unless it is in the course of conducting legitimate business and the receiving party has a right or need to know.

210.1.9 MAINTAINING SYSTEM SECURITY

Keeping the E-mail, Internet, and On-Line Services Secure from Computer Viruses:

No unauthorized downloading and/or uploading of software or files is allowed. All software downloaded must be authorized by the Town and registered to the Town.

210.2 TOWN PUBLIC IMAGE

Employee's Conduct in Public:

The Town E-Mail, Internet, and on-line services are a public place for business communications. Communications over the Town E-Mail, Internet, and on-line services reflect the Town image. Therefore, all employees are responsible to maintain and enhance the Town's public image. As stated previously, abusive, discriminatory, harassing, inflammatory, profane, pornographic, or offensive language or other materials are not to be transmitted through the Town E-Mail, Internet, and on-line services.

Employee Identity:

No message can be transmitted without the employee's identity. Transmittal of messages with anonymous or fictitious names is prohibited.

210.2.1 COPYRIGHT

Copyright Infringement:

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No copyrighting, downloading, or distributing of any copyrighted materials including, but not limited to, messages, E-Mail, text files, program files, image files, database files, sound files, and music files through the Town E-Mail, Internet, and on-line services is allowed.

210.2.2 VIOLATIONS

Failure to Comply:

Failure to comply with this policy may result in disciplinary action up to and including termination.

210.3 WARNING NOTICE

Beginning December 15, 2009, you will see the following statement each time you turn on your computer. It is a simple reminder that the Town computers are subject to monitoring with no expectation of privacy.

210.3.1 STATEMENT

NOTICE TO USERS:

This is a government computer that is the property of the Town of Atherton. It is for authorized use only. Users (authorized or unauthorized) have no explicit or implicit expectation of privacy.

Any or all uses of this system and all files on this system may be intercepted, monitored, recorded, copied, audited, inspected, and disclosed to authorized site and law enforcement personnel, as well as authorized officials of other agencies in accordance with State and Federal law. By using this system, the user consents to such interception, monitoring, recording, copying, auditing, inspection, and disclosure at the discretion of authorized site or Town of Atherton personnel.

Unauthorized or improper use of this system may result in administrative disciplinary action and civil and criminal penalties. By continuing to use this system you indicate your awareness of and consent to these terms and conditions of use. LOG OFF IMMEDIATELY if you do not agree to the conditions stated in this warning.

210.4 ADDITIONAL INFORMATION

(a) Police department personnel may go to a "non-approved" site if they can articulate and document why they needed to do so (ie: in conjunction with an investigation).

1. Police department personnel must keep track of the website visited, the reason for the visit, and the date and time of the visit.

(b) Police department personnel on non-standard hours are encouraged to use the Internet to keep them alert, but must not visit sites which would promote a hostile work environment or violate other General Orders (such as on duty gambling).

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Electronic Media Disposal Policy

211.1 PURPOSE AND SCOPE

This policy will cover the required sanitization, proper disposal, and documentation regarding the destruction of all electronic media, to ensure that the FBI CJIS Security Policy Sections 5.8.3 and 5.8.4

requirements are met. This policy applies to all electronic media including but not limited to, computer/laptop hard drives, external hard drives, thumb drives, CD/DVD/Blue Ray discs, or any other form of electronic media that has had criminal justice information on it at any time.

The scope of this policy includes all electronic devices at the Town of Atherton Police Department that access or store criminal justice information.

211.2 POLICY

Sanitization

All electronic media must be sanitized, that is, overwritten at least three times or degaussed prior to disposal. If media is inoperable, then the media shall be destroyed by either shredding or incineration.

Destruction

Once media has been properly sanitized it must be destroyed. The media can be destroyed by either shredding or incineration. The destruction of the media must be witnessed or carried out by authorized personnel of the Town of Atherton Police Department or the Town of Atherton.

Authorized personnel is defined as either a sworn personnel of the Town of Atherton Police Department, the Property Officer, or any staff from the Town of Atherton Information Technology Department.

Documentation

The Town of Atherton Police Department will maintain written documentation on the steps taken to sanitize, destroy, and dispose of all electronic media.

The documentation will include as much of the following items as possible:

- Name and signature of the person that is sanitizing the media.
- Name and signature of the person that is destroying or witnessing the destruction of the electronic media.

Enforcement

Compliance with this policy is required for all electronic media used at the Town of Atherton Police Department.

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Information Technology Incident Response Plan

212.1 INFORMATION TECHNOLOGY INCIDENT RESPONSE PLAN

See attachment: Town of Atherton Incident Response Plan.pdf

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Audits and Inspections

213.1 PURPOSE AND SCOPE

This policy provides guidelines and procedures for audits and inspections of identified Department operations. The intent of this policy is to reduce risk/liability, increase overall readiness, improve transparency, and most importantly, to maintain our integrity/professionalism and the trust of the residents we serve.

213.2 POLICY

Routine audits and inspections provide objective assurance that critical policies and procedures are being followed which add value and improve the overall operations and management of the Department. Audits and inspections help the Department accomplish our objective by bringing a systematic approach to evaluate and improve the effectiveness of the Department's risk management, control, and administrative processes. The main objective of these audits and inspections is to assist management and personnel to enhance professional performance by effective control of all operations and procedures.

213.2.1 ITEMS AND TIME FRAMES FOR AUDITS

The following is a list of audits and inspections to be conducted by the indicated time frames:

(a) Personnel/Equipment Inspections - Annually

(b) Fleet/Evidence Inspections - Annually

(c) Evidence and Property Audits - Semi-Annually

1. 1st: 10% Property & Evidence and 100% Drugs, Guns, Money, & other valuables
2. 2nd: 100% Everything

(d) Body Worn Camera Audits - Biannually

(e) K9 Program Audit - Annually

(f) Training Program Audit - 2 Year Cycle with POST

(g) Firearms Program Audit - Annually

(h) California Law Enforcement Telecommunications System (CLETS) Audit - 3 Year Cycle

(i) Criminal Offender Record Information (CORI) Audit - 3 Year Cycle

(j) California Justice Information Services Audit/NCIC Audit - 2 Year Cycle

(k) FBI National Data Exchange (N-DEx) Audit - 3 Year Cycle

(l) Public Safety Surveillance System Audit - Annually

(m) Automated License Plate Reader (ALPR) Audit - Annually

(n) RIPA enteries - Semi-Annually

The scope and methodology for each audit will be contained in the body of the audit report.

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Audits and Inspections

213.3 BODY WORN CAMERA AUDIT PROCEDURE

Procedure:

(a) Use RIMS to obtain the numbers for six months of traffic stops for each officer/ sergeant.

(b) For each officer/sergeant, take 25 random samples (approximately 4 traffic stops for each month).

(c) Establish whether the officer/sergeant turned on their body cam while making the traffic stop, and use the Reference Guide (below) to determine the appropriate category for each finding.

Reference Guide:

- BWC Activated -The officer activated his Body Worn Camera (BWC) in compliance with policy.
- No Activation- There is no record of a BWC Activation- not in compliance with policy.
- Partial Activation- The officer activated his/her body worn camera, but did not capture the enter incident.
- Malfunction?- There is a record of the BWC having been activated, but no camera footage was recorded.
- Determine the number of times each officer/sergeant was compliant with policy and calculate a percentage.

Sample:

Sergeant John Jacob

(a) 01/13/18 @ 0934 hours Inc# 1801130022 Traffic Stop BWC Activated

(b) 02/14/18 @ 1814 hours Inc# 1802140059 Traffic Stop BWC Activated

(c) 03/24/18 @ 1417 hours Inc# 1803240060 Traffic Stop No Activation

213.3.1 METHODOLOGY

The goal of this audit is to review approximately 10% of the total number of traffic stops for each officer/sergeant, and determine whether they activated their body worn camera. On average, the Atherton Police Department makes 4,000 traffic stops annually. When you divide 4,000 traffic stops by the total number of officers/sergeants (18), you get 222 traffic stops per officer. 10% of 222 is 22, but we'll round it up to 25. Thus, over the course of one year, a sample of 50 traffic stops will be reviewed to gauge our department's compliance with policy section 450.5.1.

213.4 ATHERTON POLICE AUDIT MEMO FORMAT

See attachment: Atherton PD Audit Memo Format 1-16-2020.pdf

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Administrative Communications

214.1 PURPOSE AND SCOPE

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

214.2 MEMORANDUMS

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

214.3 CORRESPONDENCE

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

214.4 SURVEYS

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

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Staffing Levels

216.1 PURPOSE AND SCOPE

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

216.2 MINIMUM STAFFING LEVELS

Minimum staffing levels will result in the scheduling of one Watch Commander and at least one officer on duty at all times.

216.2.1 SUPERVISION DEPLOYMENTS

In order to accommodate training and other unforeseen circumstances, an officer may be used as a field supervisor in place of a field sergeant.

With prior authorization from the Commander, an officer may act as the Watch Commander for a limited period of time.

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License to Carry a Firearm

218.1 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.

218.1.1 APPLICATION OF POLICY

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

218.2 POLICY

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

218.3 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 Town of Atherton (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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218.4 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).

218.4.1 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-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 files. Two recent passport-size photos (2 inches by 2 inches) of the applicant shall be submitted for department 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).

218.4.2 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 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, 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 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 Rangemaster, or provide proof of successful completion of another department-approved firearms safety and proficiency examination, including completion of all releases and other forms. The cost of any outside inspection/examination shall be the responsibility of the applicant.

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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).

218.5 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 in writing within 10 days of any change of place of residency.

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218.5.1 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.

218.5.2 OFFICER'S RESPONSIBILITIES

(a) If an officer comes in contact with a person who holds a valid CCW License, and if this licensee appears to be abusing or not using good common sense with this privilege, a memo will be prepared with all pertinent information and forwarded to the Chief of Police.

(b) If a crime has occurred, or other incident report involved, this information should also be forwarded to the Chief of Police.

(c) If extenuating circumstances are present, the person's firearm and/or CCW License may be confiscated.

1. Prior to confiscating these items, the Watch Commander should be notified.

218.5.3 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).

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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.

218.5.4 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.

(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 will immediately notify the licensee in writing and the California DOJ (Penal Code § 26225).

218.5.5 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-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.

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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).

218.6 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

(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.

218.7 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 § 7923.805).

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).

218.8 CALIFORNIA DEPARTMENT OF JUSTICE CCW APPLICATION FORM

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Authority
California Penal Code sections 26150 and 26155 provide that a sheriff of a county or the chief or other head of a municipal police department of any city or city and county may issue a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person (CCW license). Penal Code section 26175 requires the Attorney General to prescribe a statewide standard application form for a CCW license.

Who May be Issued a License
The licensing authority specified in Penal Code sections 26150 and 26155 (a sheriff or the chief or other head of a municipal police department) may issue a license to persons who are of good moral character, who have completed a course of training, and where good cause exists for issuance of the CCW license. All applicants for a CCW license will be fingerprinted and state and federal records will be checked to determine if they are eligible to possess firearms. The attachment to this application list all categories that would prohibit a person from possessing firearms and being granted a CCW license. These attachments are updated annually to reflect new legislation and other changes in the law.

Format of CCW License
A CCW license may be issued in either of the following formats:

1. A license to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person.
2. Where the population of the county is less than 200,000 persons according to the most recent federal decennial census, a license to carry loaded and exposed in the county a pistol, revolver, or other firearm capable of being concealed upon the person.

Training Required
Penal Code sections 26150 and 26155 specify that new license applicants must complete a course of training. The training may consist of any course acceptable to the licensing authority. The licensing authority may require either a course not to exceed 16 hours which includes instruction on at least firearms safety and the law regarding the permissible use of a firearm, or a community college course not to exceed 24 hours certified by the Commission on Peace Officer Standards and Training. If the licensing authority requires the community college course, it must be uniformly required for all CCW license applicants. The licensing authority may also require annual qualification on the weapon(s) during the term for which the CCW license is granted.

For license renewal applicants, the course of training may be any course acceptable to the licensing authority, shall be no less than four hours in length, and shall include instruction on firearm safety and the law regarding permissible use of a firearm.

Psychological Testing
In addition to licensing requirements as specified by the licensing authority, jurisdictions may require psychological testing on the initial application. If required, the applicant shall be referred to a licensed psychologist used by the licensing authority for the psychological testing of its own employees. Any fees charged will be the responsibility of the applicant and such fees shall not exceed $150.00 for an initial test. Additional psychological testing of an applicant seeking license renewal shall be required only if there is compelling evidence to indicate that a test is necessary. (Pen. Code, § 26190, subd. (f).)

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Completing the Application

Answering all the questions on this standard application does not guarantee the issuance of a CCW license. The determination whether to issue the license is at the discretion of the licensing authority. Pursuant to Penal Code section 26160, each licensing authority, in addition to using the state standard application form, will have a written policy summarizing what they require. Prior to issuing a CCW license, the statutes require proof that:

- The applicant is of good moral character;
- Good cause exists to issue the CCW license;
- The applicant meets residence requirements; and
- The course of training prescribed by the licensing authority has been completed.

The application on the following pages sets forth standardized questions to be used by the CCW licensing authority to determine whether a CCW license shall be issued. The applicant shall not be required to complete any additional application or form for a CCW license, or to provide any information other than that necessary to complete this standard application form except to clarify or interpret information provided herein. (Pen. Code, § 26175, subd. (g).)

The applicant will certify under penalty of perjury that all answers provided are true and correct to the best of their knowledge and belief. The applicant will also acknowledge that information disclosed on this application may be subject to public disclosure.

Important Instructions

1. Complete, read, and sign Sections 1 through 5, as directed. Use additional pages if more space is required.
2. Sections 6, 7, and 8 must be completed in the presence of an official of the licensing agency.
3. Review Section 7 and be prepared to answer these questions orally. Do not write anything in Section 7 unless specifically directed to do so by the licensing agency.

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Official Use Only
Type of License Requested
☐ Standard ☐ Judge
☐ Reserve Officer ☐ 90 Day

☐ **Initial Application** ☐ **Renewal Application**

Public Disclosure Admonition:

I understand that I am obligated to be complete and truthful in providing information on this application. I understand that all of the information disclosed by me in this application may be subject to public disclosure.

Applicant Signature _____ Date _____

Witness Signature _____ Badge Number _____ Date _____

Section 1 - Applicant Personal Information

Last Name _____ First Name _____ Middle Name _____

If Applicable, Maiden Name or Other Names(s) Used _____

City of Residence _____ County of Residence _____ Country of Citizenship _____

Date of Birth _____ Place of Birth (City, County, State) _____

Height _____ Weight _____ Eye Color _____ Hair Color _____ M/F

Section 2 - Applicant Clearance Questions

1. Do you now have, or have you ever had, a license to carry a concealed weapon (CCW)? If yes, please enter the issuing agency name, issue date and CCW license number. Use additional pages if necessary. ☐YES ☐NO

   Issuing Agency _____ Issue Date _____ CCW No. _____

2. Have you ever applied for and been denied a CCW license? If yes, please enter the agency name, date, and the reason for denial. ☐YES ☐NO

   Agency Name _____ Date _____

   Reason for Denial _____

3. Have you ever held and subsequently renounced your United States citizenship? If yes, please explain. ☐YES ☐NO

4. If you served with the Armed Forces, were you ever convicted of any charges or was your discharge other than honorable? If yes, please explain. ☐YES ☐NO

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5. Are you now, or have you been, a party to a lawsuit in the last five years? If yes, please explain. ☐YES ☐NO

6. Are you now, or have you been, subject to a restraining order(s) from any court? If yes, please explain. ☐YES ☐NO

7. Are you on probation or parole from any state for conviction of any offense including traffic? If yes, please explain. ☐YES ☐NO

8. List all traffic violations (moving violations only) and motor vehicle accidents you have had in the last five years. Use additional pages if necessary.

Date	Violation/Accident	Agency	Citation No.
Date	Violation/Accident	Agency	Citation No.
Date	Violation/Accident	Agency	Citation No.
Date	Violation/Accident	Agency	Citation No.
Date	Violation/Accident	Agency	Citation No.

9. Have you ever been convicted of any criminal offense (civilian or military) in the U.S. or any other country? If yes, please explain including the date, agency, charges and disposition. ☐YES ☐NO

10. Have you withheld any fact that might affect the decision to approve this license? If yes, please explain. ☐YES ☐NO

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Section 3 - Description of Weapons

List below the weapons you desire to carry if granted a CCW license. You may carry concealed only the weapon(s) which you list and describe herein, and only for the purpose indicated. Any misuse will cause an automatic revocation and possible arrest. Use additional pages if necessary.

Make	Model	Caliber	Serial Number
Make	Model	Caliber	Serial Number
Make	Model	Caliber	Serial Number

Section 4 - CCW License Conditions and Restrictions

The licensee is responsible for all liability for, injury to, or death of any person, or damage to any property which may result through any act or omission of either the licensee or the agency that issued the license. In the event any claim, suit, or action is brought against the agency that issued the license, its chief officer or any of its employees, by reason of, or in connection with any such act or omission, the licensee shall defend, indemnify, and hold harmless the agency that issued the license, its chief officer or any of its employees from such claim, suit, or action.

The licensee authorizes the licensing agency to investigate, as they deem necessary, the licensee's record and character to ascertain any and all information which may concern his/her qualifications and justification to be issued a license to carry a concealed weapon and release said agency of any and all liability arising out of such investigation.

While exercising the privileges granted to the licensee under the terms of this license, the licensee shall not, when carrying a concealed weapon:

- Consume any alcoholic beverage.
- Be in a place having a primary purpose of dispensing alcoholic beverages for on-site consumption.
- Be under the influence of any medication or drug, whether prescribed or not.
- Refuse to show the license or surrender the concealed weapon to any peace officer upon demand.
- Impede any peace officer in the performance of his/her duties.
- Present himself/herself as a peace officer to any person unless he/she is, in fact, a peace officer as defined by California law.
- Unjustifiably display a concealed weapon.
- Carry a concealed weapon not listed on the permit.
- Carry a concealed weapon at times or circumstances other than those specified in the permit.

Title 49, section 46505 of the United States Code states that a license to carry a concealed weapon does not authorize a person to carry a firearm, tear gas, or any dangerous weapon aboard commercial airlines. Further, a person must declare that he/she is carrying such firearm, tear gas, or any dangerous weapon BEFORE entering the boarding area of an air terminal where the security checks are made. Such violation can result in arrest by law enforcement.

Any violation of these restrictions or conditions may invalidate the CCW license and may void any further use of the license until reinstated by the licensing authority. Any arrest for a felony or serious misdemeanor, including driving under the influence of alcohol and/or drugs, is cause for invalidating the license.

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Section 5 - Applicable California Penal Code Sections

The following Penal Code sections are of special importance to the holder of a CCW license regarding the use, carrying, and storage of firearms:

Penal Code section 26180 - False Statement on Application Form

(a) Any person who files an application required by Section 26175 knowing that statements contained therein are false is guilty of a misdemeanor.
(b) Any person who knowingly makes a false statement on the application regarding any of the following is guilty of a felony.
  (1) The denial or revocation of a license, or the denial of an amendment to a license, issued pursuant to this article.
  (2) A criminal conviction.
  (3) A finding of not guilty by reason of insanity.
  (4) The use of a controlled substance.
  (5) A dishonorable discharge from military service.
  (6) A commitment to a mental institution.
  (7) A renunciation of United States citizenship.

Penal Code section 192 - Manslaughter

Manslaughter is the unlawful killing of a human being without malice.
(a) Voluntary - upon a sudden quarrel or heat of passion.
(b) Involuntary - in the commission of an unlawful act, not amounting to a felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection. This subdivision shall not apply to acts committed in the driving of a vehicle.

Penal Code section 197 - Justifiable Homicide; Any Person

Homicide is also justifiable when committed by any person in any of the following cases:
1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,
2. When committed in defense of habitation, property, or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein; or
3. When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or
4. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

Penal Code section 198 - Justifiable Homicide; Sufficiency of Fear

A bare fear of the commission of any of the offenses mentioned in subdivisions 2 and 3 of Section 197, to prevent which homicide may be lawfully committed, is not sufficient to justify it. But the circumstances must be sufficient to excite the fears of a reasonable person, and the party killing must have acted under the influence of such fears alone.

Penal Code section 199 - Justifiable and Excusable Homicide; Discharge of Defendant

The homicide appearing to be justifiable or excusable, the person indicted must, upon his trial, be fully acquitted and discharged.

Penal Code section 25100 - Criminal Storage of Firearm

(a) Except as provided in Section 25105, a person commits the crime of "criminal storage of a firearm of the first degree" if all of the following conditions are satisfied.
  (1) The person keeps any loaded firearm within any premises that are under the person's custody or control.
  (2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian.
  (3) The child obtains access to the firearm and thereby causes death or great bodily injury to the child or any other person.

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Section 5 - Applicable California Penal Code Sections - Continued

(b) Except as provided in Section 25105, a person commits the crime of "criminal storage of a firearm of the second degree" if all of the following conditions are satisfied:
  (1) The person keeps any loaded firearm within any premises that are under the person's custody or control.
  (2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian.
  (3) The child obtains access to the firearm and thereby causes injury, other than great bodily injury, to the child or any other person, or carries the firearm either to a public place or in violation of Section 417.

Penal Code section 25105 - Exceptions

Section 25100 does not apply whenever any of the following occurs:
(a) The child obtains the firearm as a result of an illegal entry to any premises by any person.
(b) The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.
(c) The firearm is carried on the person or within close enough proximity thereto that the individual can readily retrieve and use the firearm as if carried on the person.
(d) The firearm is locked with a locking device, as defined in Section 16860, which has rendered the firearm inoperable.
(e) The person is a peace officer or a member of the Armed Forces or the National Guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.
(f) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense for defense of another person.
(g) The person who keeps a loaded firearm on any premise that is under the person's custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premise.

Penal Code section 25200 - Storage of Firearm where Child Obtains Access and Carries Firearm Off-Premises

(a) If all of the following conditions are satisfied, a person shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine:
  (1) The person keeps a pistol, revolver, or other firearm capable of being concealed upon the person, loaded or unloaded, within any premises that are under the person's custody or control.
  (2) The person knows or reasonably should know that a child is likely to gain access to that firearm without the permission of the child's parent or legal guardian.
  (3) The child obtains access to that firearm and thereafter carries that firearm off-premises.
(b) If all of the following conditions are satisfied, a person shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding five thousand dollars ($5,000), or by both that imprisonment and fine:
  (1) The person keeps any firearm within any premises that are under the person's custody or control.
  (2) The person knows or reasonably should know that a child is likely gain access to the firearm without the permission of the child's parent or legal guardian.
  (3) The child obtains access to the firearm and thereafter carries that firearm off-premises to any public or private preschool, elementary school, middle school, high school, or to any school-sponsored event, activity, or performance, whether occurring on school grounds or elsewhere.
(c) A pistol, revolver, or other firearm capable of being concealed upon the person that a child gains access to and carries off-premises in violation of this section shall be deemed "used in the commission of any misdemeanor as provided in this code or any felony" for the purpose of Section 29300 regarding the authority to confiscate firearms and other deadly weapons as a nuisance.
(d) As used in this section, "off-premises" means premises other than the premises where the firearm was stored.

Penal Code section 25205 - Exceptions

Section 25200 does not apply if any of the following are true:
(a) The child obtains the firearm as a result of an illegal entry into any premises by any person.
(b) The firearm is kept in a locked container or in a location that a reasonable person would believe to be secure.
(c) The firearm is locked with a locking device, as defined in Section 16860, which has rendered the firearm inoperable.
(d) The firearm is carried on the person within close enough range that the individual can readily retrieve and use the firearm as if carried on the person.
(e) The person is a peace officer or a member of the Armed Forces or National Guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.
(f) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person.
(g) The person who keeps a firearm has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises.

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STANDARD INITIAL AND RENEWAL APPLICATION FOR LICENSE TO CARRY A CONCEALED WEAPON

Section 6 - Agreement to Restrictions and to Hold Harmless

I accept and assume all responsibility and liability for, injury to, or death of any person, or damage to any property which may result through an act or omission of either the licensee or the agency that issued the license. In the event any claim, suit or action is brought against the agency that issued the license, its chief officer or any of its employees, by reason of, or in connection with any such act or omission, the licensee shall defend, indemnify, and hold harmless the agency that issued the license, its chief officer or any of its employees from such claim, suit, or action.

I understand that the acceptance of any application by the licensing authority does not guarantee the issuance of a license and that fees and costs are not refundable if denied. I further understand that if my application is approved and I am issued a license to carry a concealed weapon, that the license is subject to restrictions placed upon it and that misuse of the license will cause an automatic revocation and possible arrest and that the license may also be suspended or revoked at the discretion of the licensing authority at any time. I am aware that any use of a firearm may bring criminal action or civil liability against me.

I have read, understand, and agree to the CCW license liability clauses, conditions, and restrictions stated in this application and Agreement to Restrictions and to Hold Harmless.

I have read and understand the applicable Penal Code sections regarding false statements on a CCW Application, manslaughter, killing in defense of self or property, limitation on self-defense and defense of property, and child access and firearm storage, stated in this application.

I have read and understand the Firearms Prohibiting Categories attachment to this application. I further acknowledge that these prohibiting categories can be amended or expanded by state or federal legislative or regulatory bodies and that any such amendment or expansion may affect my eligibility to hold a CCW license.

Applicant Signature	Date

Witness Signature	Badge Number	Date

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STANDARD INITIAL AND RENEWAL APPLICATION FOR LICENSE TO CARRY A CONCEALED WEAPON

Section 7 - Investigator's Interview Notes

Applicant Last Name | First Name | Middle Name

Date of Birth | Age | Social Security No. | CA Driver License/ID No.

CA Driver License Restrictions

Residence Address | City | State | Zip Code | Telephone Number (Day)

Mailing Address (if different) | City | State | Zip Code | Telephone Number (Evening)

Spouse/Domestic Partner Last Name | First Name | Middle Name

Physical Address *(if different than applicant)* | City | State | Zip Code | Telephone Number

Applicant Occupation | Business/Employer Name

Business/Employer Address | City | State | Zip Code | Telephone Number

1. List all previous home addresses for the past five years. Use additional pages if necessary.

Address | City | State | Zip Code

Address | City | State | Zip Code

Address | City | State | Zip Code

Address | City | State | Zip Code

2. Have you ever been in a mental institution, treated for mental illness, or been found not-guilty by reason of insanity? If yes, please explain. ☐YES ☐NO

3. Are you now, or have you ever been, addicted to a controlled substance or alcohol, or have you ever utilized an illegal controlled substance, or have you ever reported to a detoxification or drug treatment program. If yes, please explain. ☐YES ☐NO

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STANDARD INITIAL AND RENEWAL APPLICATION FOR LICENSE TO CARRY A CONCEALED WEAPON

Section 7 - Investigator's Interview Notes - Continued

4. Have you ever been involved in an incident involving firearms? If yes, please explain. ☐YES ☐NO

5. Have you ever been involved in a domestic violence incident? If yes, please explain. ☐YES ☐NO

6. List any arrest or formal charges, with or without disposition, for any criminal offenses within the U.S. or any other country (civilian or military) ☐YES ☐NO

If the CCW license is desired for self-protection, the protection of others, or for the protection of large sums of money or valuable property, you are required to explain and provide good cause for issuance of the license. For example, has your life or property been threatened or jeopardized? Explain incidents and include dates, times, locations, and names of police agencies to which these incidents were reported.

Details of Reason for Applicant Desiring a CCW license. Use additional pages if necessary.

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STANDARD INITIAL AND RENEWAL APPLICATION FOR LICENSE TO CARRY A CONCEALED WEAPON

Section 8 - Release of Information and Declaration

I herby give permission to the agency to which this application is made to conduct a background investigation of me and to contact any person or agency who may add to or aid in this investigation. I further authorize persons, firms, agencies and institutions listed on this application to release or confirm information about me and statements I have made as contained in this application.

Notwithstanding any other provision of law and pursuant to the Public Records Act (Government Code section 6250 et seq.), I understand that information contained in this application may be a matter of public record and shall be made available upon request or court order.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Applicant Signature	Date

Witness Signature	Badge Number	Date

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License to Carry a Firearm

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FIREARMS PROHIBITING CATEGORIES

State and federal law make it unlawful for certain persons to own and/or possess firearms, including:

- Any person who is convicted of a felony, or any offense enumerated in Penal Code sections 29900 or 29905
- Any person who is ordered to not possess firearms as a condition of probation or other court order listed in Penal Code section 29815, subdivisions (a) and (b)
- Any person who is convicted of a misdemeanor listed in Penal Code section 29805 (refer to List of Prohibiting Misdemeanors)
- Any person who is adjudged a ward of the juvenile court because he or she committed an offense listed in Welfare and Institutions Code section 707(b), an offense described in Penal Code section 1203.073(b), or any offense enumerated in Penal Code section 29805
- Any person who is subject to a temporary restraining order or an injunction issued pursuant to Code of Civil Procedure sections 527.6 or 527.8, a protective order as defined in Family Code section 6218, a protective order issued pursuant to Penal Code sections 136.2 or 646.91, or a protective order issued pursuant to Welfare and Institutions Code section 15657.03
- Any person who is found by a court to be a danger to himself, herself, or others because of a mental illness
- Any person who is found by a court to be mentally incompetent to stand trial
- Any person who is found by a court to be not guilty by reason of insanity
- Any person who is adjudicated to be a mentally disordered sex offender
- Any person who is placed on a conservatorship because he or she is gravely disabled as a result of a mental disorder, or an impairment by chronic alcoholism
- Any person who communicates a threat to a licensed psychotherapist against a reasonably identifiable victim, that has been reported by the psychotherapist to law enforcement
- Any person who is taken into custody as a danger to self or others under Welfare and Institutions Code section 5150, assessed under Welfare and Institutions Code section 5151, and admitted to a mental health facility under Welfare and Institutions Code sections 5151, 5152, or certified under Welfare and Institutions Code sections 5250, 5260, and 5270.15
- Any person who is addicted to the use of narcotics (state and federal)
- Any person who is under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year (federal)
- Any person who has been discharged from the military under dishonorable conditions (federal)
- Any person who is an illegal alien (federal)
- Any person who has renounced his or her US Citizenship (federal)
- Any person who is a fugitive from justice (federal)

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FIREARMS PROHIBITING CATEGORIES

Firearm prohibitions for misdemeanor violations of the offenses listed below are generally for ten years from the date of conviction, but the duration of each prohibition may vary. All statutory references are to the California Penal Code, unless otherwise indicated.

- Threatening public officers, employees, and school officials (Pen. Code, § 71.)
- Threatening certain public officers, appointees, judges, staff or their families with the intent and apparent ability to carry out the threat (Pen. Code, § 76.)
- Intimidating witnesses or victims (Pen. Code, § 136.1.)
- Possessing a deadly weapon with the intent to intimidate a witness (Pen. Code, § 136.5.)
- Threatening witnesses, victims, or informants (Pen. Code, § 140.)
- Attempting to remove or take a firearm from the person or immediate presence of a public or peace officer (Pen. Code, § 148(d).)
- Unauthorized possession of a weapon in a courtroom. Courthouse, or court building, or at a public meeting (Pen. Code, § 171(b).)
- Bringing into or possessing a loaded firearm within the state capitol, legislative offices, etc. (Pen. Code, § 171(c).)
- Taking into or possessing loaded firearms within the Governor's Mansion or residence of other constitutional officers (Pen. Code, 171(d).)
- Supplying, selling or giving possession of a firearm to a person for participation in criminal street gangs (Pen. Code, § 186.28.)
- Assault (Pen. Code, §§ 240, 241.)
- Battery (Pen. Code, §§ 242, 243.)
- Sexual Battery (Pen. Code, § 243.4)
- Assault with a stun gun or taser weapon (Pen. Code, § 244.5.)
- Assault with a deadly weapon other than a firearm, or with force likely to produce great bodily injury (Pen. Code, § 245.)
- Assault with a deadly weapon or instrument; by any means likely to produce great bodily injury or with a stun gun or taser on a school employee engaged in performance of duties (Pen. Code, § 245.5 .)
- Discharging a firearm in a grossly negligent manner (Pen. Code, § 246.3.)
- Shooting at an unoccupied aircraft, motor vehicle, or uninhabited building or dwelling house (Pen. Code, § 247.)
- Inflicting corporal injury on a spouse or significant other (Pen. Code, § 273.5.)*
- Wilfully violating a domestic protective order (Pen. Code, § 273.6.)
- Drawing, exhibiting, or using deadly weapon other than a firearm (Pen. Code, § 417, subd. (a)(1) & (a)(2).)
- Inflicting serious bodily injury as a result of brandishing (Pen. Code, § 417.6.)
- Making threats to commit a crime which will result in death or great bodily injury to another person (Pen. Code, § 422.)
- Bringing into or possessing firearms upon or within public schools and grounds (Pen. Code, § 626.9.)
- Stalking (Pen. Code, § 646.9.)
- Armed criminal action (Pen. Code, § 25800.)
- Possessing a deadly weapon with intent to commit an assault (Pen. Code, § 17500.)
- Driver of any vehicle who knowingly permits another person to discharge a firearm from the vehicle or any person who willfully and maliciously discharges a firearm from a motor vehicle (Pen. Code, § 26100, subd. (b) or (d).)
- Criminal possession of a firearm (Pen. Code, § 25300.)
- Firearms dealer who sells, transfers or gives possession of any firearm to a minor or a handgun to a person under 21 (Pen. Code, § 27510.)
- Various violations involving sales and transfers of firearms (Pen. Code, § 27590, subd. (c).)
- Person or corporation who sells any concealable firearm to any minor (former Pen. Code, § 12100, subd. (a).)
- Unauthorized possession/transportation of a machine gun (Pen. Code, § 32625)
- Possession of ammunition designed to penetrate metal or armor (Pen. Code, § 30315.)
- Carrying a concealed or loaded firearm or other deadly weapon or wearing a peace officer uniform while picketing (Pen. Code, §§ 830.95, subd. (a), 17510, subd. (a.)
- Bringing firearm related contraband into juvenile hall (Welf. & Inst. Code, § 871.5.)
- Bringing firearm related contraband into a youth authority institution (Welf. & Inst. Code, § 1001.5.)
- Purchase, possession, or receipt of a firearm or deadly weapon by a person receiving in-patient treatment for a mental disorder, or by a person who has communicated to a licensed psychotherapist a serious threat of physical violence against an identifiable victim (Welf. & Inst. Code, § 8100.)
- Providing a firearm or deadly weapon to a person described in Welfare and Institutions Code sections 8100 or 8103 (Welf. & Inst. Code, § 8101.)
- Purchase, possession, or receipt of a firearm or deadly weapon by a person who has been adjudicated to be a mentally disordered sex offender or found to be mentally incompetent to stand trial, or not guilty by reason of insanity, and individuals placed under conservatorship (Welf. & Inst. Code, § 8103.)

The following misdemeanor convictions result in a lifetime prohibition:

- Assault with a firearm (Pen. Code, §§ 29800, subd. (a)(1), 23515, subd. (a).)
- Shooting at an inhabited or occupied dwelling house, building, vehicle, aircraft, housecar or camper (Pen. Code, §§ 246, 29800, subd. (a)(1), 17510, 23515, subd. (b).)
- Brandishing a firearm in presence of a peace officer (Pen. Code §§ 417, subd. (c), 23515, subd. (d), 29800, subd. (a)(1).)
- Two or more convictions of Penal Code section 417, subdivision (a)(2) (Pen. Code § 29800, subd. (a)(2).)

* A "misdemeanor crime of domestic violence" (18 U.S.C. §§ 921(a)(33)(A), 922(g)(9).)

Note: The Department of Justice provides this document for informational purposes only. This list may not be inclusive of all firearms prohibitions. For specific legal advice, please consult with an attorney licensed to practice law in California.

218.9 LIMITED BUSINESS LICENSE TO CARRY A CONCEALED FIREARM

The authority to issue a limited business license to carry a concealed firearm to a non-resident applicant is granted only to the Sheriff of the county in which the applicant works. A chief of a

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License to Carry a Firearm

municipal police department 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 Town of Atherton (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).

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San Mateo County Concealed Weapons Permit Procedures

219.1 PURPOSE AND SCOPE

The Sheriff shall be the primary issuer of permits to carry concealed weapons within the County of San Mateo by agreement of the Sheriff and the County Police Chiefs. This will not, however, negate the authority of any chief to issue a permit based upon his or her own determination. Any permits issued to a reserve officer or reserve deputy sheriff shall be issued by the police chief of that jurisdiction or the Sheriff in the case of reserve deputies.

219.2 INVESTIGATION, ISSUANCE, AND RENEWAL PROCEDURES

While the Sheriff in most cases will be the issuing authority, local agencies will conduct the permit investigations for residents making applications within their jurisdictions. The investigation report will be forwarded to the Sheriff's Concealed Weapons Permit Coordinator for disposition.

All persons making a request at a police agency or the Sheriff's Office will be provided an application provided they reside within that jurisdiction. It will be the agency's option as to whether to provide the applicant with an initial assessment of "good cause." This may be helpful to an applicant in determining whether he/she wishes to proceed with the process prior to paying the requisite fees. However, it should be made clear that the issuing chief or the Sheriff is the final authority and that this initial assessment is only "preliminary guidance."

The applicant will be instructed to complete the application and return the completed document to the responsible agency for the investigation. It would be helpful for the applicant to submit a written "good cause" statement explaining the need for a permit. This is not required by law, however, and cannot be required. The applicant should then be advised to arrange for fingerprinting at the Sheriff's Office located on the third floor of the Hall of Justice, 400 County Center in Redwood City. Appointments can be made by calling the Sheriff's Property Unit at 650-599-1520. Applicants should bring a check for $95 made out to San Mateo County along with their driver license and proof of residency. Applicants must be fingerprinted by the agency which ultimately issues the permit so that the issuing agency can receive any Department of Justice "subsequent arrest notification" and revoke the permit if need be.

Once the fingerprint return arrives, the Sheriff's Office will forward the result to the investigating agency so that agency's investigator has full knowledge of the applicant's criminal history, if any, and can make inquiries accordingly.

The investigating officer will review the application, interview the applicant, and make determinations in accordance with criteria established in Sections 26150 to 26225 of the California Penal Code. Among the items to be determined are:

1. The applicant is a resident of San Mateo County.

2. The applicant has the need for a permit based upon "good cause."

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San Mateo County Concealed Weapons Permit Procedures

3. The applicant possesses "good moral character."

Good Cause;

Good Cause is an individual issue and gives broad discretion to the issuing authority in its determination. Applicants should be advised that "good cause" will not be supported solely to allay the applicant's "fear of victimization" or to "provide a feeling of safety." Rather, good cause is a determination made after a review of the totality of the applicant's individual circumstances with attention to whether:

(a) There is clear and convincing evidence of a clear and present danger to life or of great bodily harm to the applicant, a spouse or dependent child.

(b) Whether the applicant has a high exposure to potential attack resulting from his/her involvement in the community, prior victimization, public persona, involvement in the criminal justice system, or other unavoidable activity.

(c) Whether the applicant is involved in an extremely high risk occupation which involves the routine risk of victimization such as attack or robbery.

Good Moral Character:

Certain convictions will demonstrate that the applicant does not possess "good moral character." Refer to Penal Code Section 26202. While no statutory definition exists as to what "good moral character" is, factors that may be included are, but not limited to: qualities of honesty, candor, trustworthiness, respect for and obedience to the law, respect for the rights of others and the judicial process.

Applicants should be advised to be forthright on their applications and answer all questions honestly. Refer to Penal Code Section 26180, Filing of False Application.

Note: As per Penal Code Section 26175, "An applicant shall not be required to complete any additional application or form for a permit, or to provide any information other than that necessary to complete the standard application form described in subdivision (a), except to clarify or interpret information provided by the applicant on the standard application form."

Once the investigating agency completes its work, the application will be forwarded to the Sheriff's Office Concealed Weapons Permit Coordinator (CWPC):

Sgt. Christina Corpus

San Mateo County Sheriff's Office

400 County Center

Redwood City, CA 94063

The CWPC will assemble the appropriate documents into a report routed through the Sheriff's chain of command to the Sheriff. The Sheriff has sole authority to grant or deny permits. Should a permit be denied, the applicant will be notified in writing and be informed which requirement was not satisfied (Penal Code Section 26205). If the permit is granted, the applicant will be instructed

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San Mateo County Concealed Weapons Permit Procedures

to report to the Sheriff's Training Center at Coyote Point for completion of the CCW Instructional Session and qualification with the guns the applicant seeks to carry. A $100 fee will be charged at this point in the process. No additional fees may be collected. Provided the applicant passes both a written test and the qualification course of fire, the rangemaster will notify the Sheriff's administration, and a permit will be issued.

Standard permits (civilian) are valid for a two year period at which time they may be renewed. Applicants are responsible for renewing their permits, and should notify the Sheriff's administration (650-599-1662) at least two months prior to the permit expiration date. Renewal applicants will again complete the approved training and firearms qualification in order to renew their permit.

Questions specific to the concealed weapons permit training course and range qualification should be directed to the Concealed Weapons Permit Coordinator and/or the Sheriff's Rangemaster.

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Retiree Concealed Firearms

220.1 PURPOSE AND SCOPE

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

220.2 POLICY

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

220.2.1 CALIFORNIA PENAL CODE SECTION 25455

(a) CPC 25455(a) Any peace officer described in Section 25450 who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer retired.

(b) CPC 25455(b) The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this article.

(c) CPC 25455(c) Any officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a concealed firearm.

(d) CPC 25455(d) An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm.

220.3 LEOSA

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

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

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

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

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

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

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Retiree Concealed Firearms

220.3.1 AUTHORIZATION

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

(a) In possession of photographic identification that identifies him/her as having been employed as a law enforcement officer, and one of the following:

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

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

(c) Not prohibited by federal law from receiving a firearm.

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

220.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

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

(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).

220.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

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

(a) A photograph of the retiree.

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

(c) The date of retirement.

(d) The name and address of this department.

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

220.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

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

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

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

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

220.4.3 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).

220.5 FORMER OFFICER RESPONSIBILITIES

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

220.5.1 RESPONSIBILITIES UNDER LEOSA

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

(a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.

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

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

(d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

220.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

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

(a) Qualify annually with the authorized firearm at a course approved by this department.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
2. The Watch Commander should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief of Police.
3. The personal and written notification should be as follows:
   (a) The retiree's CCW endorsement is immediately and temporarily suspended.
   (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
   (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

220.8 FIREARM QUALIFICATIONS

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

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Safe Drinking Water and Toxic Enforcement Act of 1986

221.1 PURPOSE AND SCOPE

On January 1, 1987, Section 4 of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) became effective. It is the position of the Atherton Police Department that this act will be adhered to by members of this Department.

221.1.1 PROCEDURE

(a) § 25180.7 is hereby added to the Health and Safety Code as follows:

1. Within the meaning of this section, a "designated government employee" is any person defined as a "designated government" by Government Code § 82019, as amended.

2. Any designated government employee, who obtains information in the course of his/her official duties, revealing the illegal discharge or threatened illegal discharge of a hazardous waste within the geographical area of his/her jurisdiction, and who knows that such discharge or threatened discharge is likely to cause substantial injury to the public health or safety must, within seventy-two hours, disclose such information to the local Board of Supervisors and to the local health officer. No disclosure of information is required under this subdivision when otherwise prohibited by law, or when law enforcement personnel have determined that such disclosure would adversely affect ongoing criminal investigation, or when the information is already general public knowledge within the locality affected by the discharge or threatened discharge.

3. Any designated government employee who knowingly and intentionally fails to disclose information required to be disclosed under subdivision (b) shall, upon conviction, be punished by imprisonment in the county jail for not more than three years. The court may also impose upon the person a fine of not less than five thousand dollars ($5,000.00) or more than twenty-five thousand dollars ($25,000.00). The felony conviction for violation of this section shall require a forfeiture of government employment within thirty days of conviction.

4. Any local health officer who receives information pursuant to subdivision (b) shall take appropriate action to notify local news media, and make such information available to the public, without delay.

(b) Reportable discharges are defined as those that are likely to cause substantial injury to public health or safety.

1. All hazardous materials, once discharged, are regarded as hazardous waste.

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2. Materials are classified as hazardous because of their toxic, flammable, corrosive, reactive, or infectious properties.

(c) Knowing and intentionally failing to disclose information regarding an illegal or threatened illegal discharge may result in criminal sanctions and forfeiture of governmental employment.

(d) Any employee who knows or suspects the illegal discharge of hazardous waste shall forward all information available, by memorandum, to the Investigation Division.

1. The Investigation Division will initiate an investigation and be responsible for the initial report if one has not been previously written.

2. The Investigation Division shall be responsible for notifying, forwarding all required documentation, and coordinating as required, with the County Department of Health within seventy-two hours of discovery.

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Records Retention and Destruction

223.1 PURPOSE AND SCOPE

On March 18, 2015 the Atherton Town Council adopted the Records Retention and Destruction policy through Resolution Number 15-09. This policy references California Government Code section 34090 which provides a procedure whereby any Town records which have served their purpose and are no longer required may be destroyed. The following sections are applicable to the records of the Atherton Police Department. Please refer to the following legend codes:

223.1.1 LEGEND CODES

AU: Audit Year

CU: Current Year

CFY: Current Fiscal Year

CL: Closed

EX: Expiration

L: Life (of equipment/improvement/etc)

NLN: No Longer Needed

P: Permanent

SU: Superseded

T: Term (of employment/contract/etc)

H: Historical records may document the Town's incorporation, annexations, major projects, and strategic direction. These records may have intrinsic value due to age, author, subject, or special nature.

V: Vital records are critical to the Town's business, and are either irreplaceable or very difficult to replace. Vital records enable the Town to provide important services during and immediately following a disaster or emergency; meet obligations to employees; reconstruct assets, legal rights and obligations; establish the Town's financial position.

C: Confidential records contain case sensitive or private information that would be harmful to an employee or the Town if accessed or viewed by unauthorized individuals. Care should be taken to protect confidential records.

223.2 ADMINISTRATION

223.2.1 CARDS

(a) Daily Activity (Logs and Shift Roster)

1. Department Retention: CU + 2

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2. Total Retention: CU + 2
3. Historic: No
4. Regulation: GC 34090

223.2.2 FORMS

(a) K-9 (Monthly Training Files, Schedules, Records, Certificates, Bite Memos)
   1. Department Retention: CU + 2
   2. Total Retention: CU + 2
   3. Historic: No
   4. Regulation: GC 34090

(b) Ride Along Waivers, Citizen Correspondence
   1. Department Retention: CU + 2
   2. Total Retention: CU + 2
   3. Historic: No
   4. Regulation: GC 34090

223.2.3 INVENTORIES

(a) Firearms
   1. Department Retention: SU + 2
   2. Total Retention: SU +2
   3. Historic: No
   4. Regulation: GC 34090

(b) Department Equipment
   1. Department Retention: SU + 2
   2. Total Retention: SU +2
   3. Historic: No
   4. Regulation: GC 34090

223.2.4 LICENSES, APPLICATIONS & PERMITS

(a) CCW Permit (Approved and Denied)
   1. Department Retention: EX + 2
   2. Total Retention: EX + 2

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3. Historic: No
4. Regulation: GC 34090

(b) Solicitor Permits

1. Department Retention: T + 2

(c) Applications, Background Checks

1. Department Retention: T + 2
2. Total Retention: T + 2
3. Historic: No
4. Regulation: GC 34090

223.2.5 LOGS

(a) Daily Activity, Report to Press, Juvenile Detention, Portable Alcohol Screening (PAS), Subpoena, Tow, Warrant, Accident, Alcohol Beverage Control (ABC)

1. Department Retention: CU + 2
2. Total Retention: CU + 2
3. Historic: No
4. Regulation: GC 34090

223.2.6 NOTICE OF CONSENT, DMV PULL NOTICES

(a) Consent for other Police to enter Town

1. Department Retention: SU
2. Total Retention: SU
3. Historic: No
4. Regulation: GC 34090

223.2.7 EMPLOYEE FILES (ACTIVE)

(a) Background Files, Evaluations, Commendations, Intent to Discipline, Notices of Disciplinary Action, Appeals, Secondary Employment Permits, Signed Training Bulletins, Training Certificates, Training Rosters

1. Department Retention: T + 5
2. Total Retention: T + 5
3. Historic: No
4. Regulation: Department Policy

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(a) Okay to destroy paper files after 2 years and e-file.

223.2.8 RECRUITMENT (APPLICANTS NOT HIRED)

(a) Applications, Resumes, Reference Checks, Pre Hire Drug Testing, Background Investigations

1. Department Retention: CU + 2
2. Total Retention: CU + 2
3. Historic: No
4. Regulation: GC 34090

223.2.9 TRAINING MATERIALS

(a) Course of Fire and Shooting Records

1. Department Retention: SU + 5
2. Total Retention: SU + 5
3. Historic: No
4. Regulation: CCP 337, CCP 343, Department Policy

223.2.10 POLICIES

(a) Department Policy Manual Including General Orders

1. Department Retention: SU + 4
2. Total Retention: SU + 4
3. Historic: No
4. Regulation: Department Policy
    (a) Okay to destroy paper files after 2 years and e-file.

223.2.11 REPORT

(a) Statistical Uniform Crime Reports

1. Department Retention: CU + 5
2. Total Retention: CU + 5
3. Historic: No
4. Regulation: Department Policy
    (a) Okay to destroy paper files after 2 years and e-file.

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223.2.12 EQUIPMENT (NON-VEHICLE)

(a) Warranties, Repair History, Licensing, Manuals

1. Department Retention: L
2. Total Retention: L
3. Historic: No
4. Regulation: GC 34090

223.3 RECORDS

223.3.1 CASE FILES
*Statute of Limitations is six (6) years

*AFS is Automated Property System

(a) All Felonies and Misdemeanors except those otherwise specifically mentioned in this retention schedule provided there are no outstanding warrants or recovered weapons in AFS or DNA evidence

1. Department Retention: CU + 6
2. Total Retention: CU + 6
3. Historic: Review
4. Regulation: PC 800

(b) All Felonies and Misdemeanors except those otherwise specifically mentioned in this retention schedule provided there is DNA evidence and there are no outstanding warrants or un-recovered weapons in AFS

1. Department Retention: Suspect Identified + 6
2. Total Retention: Suspect Identified + 6
3. Historic: Review
4. Regulation: District Attorney Recommendation

(c) Homicides, Attempted Homicides, Suicides, Manslaughter, Fatal traffic Collisions, Suspicious Deaths, Kidnapping, Substantiated Child/Elder Abuse, Sexual Assaults, Rapes, Arson, Bank Robberies, Falsification of Public Records, Misuse of Public Funds, Train Wrecking, Treason

1. Department Retention: CU + 6
2. Total Retention: Permanent
3. Historic: No

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4. Regulation: PC 261, PC 286, PC 288, PC 288.5, PC 289, PC 289.5, PC 799, Department Policy

(d) Marijuana Misdemeanor

1. Department Retention: Max. of CL + 2 and 18th Birthday
2. Total Retention: Max. of CL + 2 and 18th Birthday
3. Historic: No
4. Regulation: H&S 11361.6

(e) Missing Person - Closed

1. Department Retention: CL + 2
2. Total Retention: CL + 2
3. Historic: No
4. Regulation: GC 34090

(f) Missing Person - Open

1. Department Retention: P (Until Located)
2. Total Retention: P (Until Located)
3. Historic:
4. Regulation: Department Policy

223.3.2 CASE FILES, SEALED

(a) Factually Innocent (Restricted Access)

1. Department Retention: Date of Arrest + 3
2. Total Retention: Date of Arrest + 3
3. Historic: No
4. Regulation: PC 851.8, WIC 781.5

(b) Not Factually Innocent (Restricted Access)

1. Department Retention: Sealed + 5 or Court Ordered
2. Total Retention: Sealed + 5 or Court Ordered
3. Historic: No
4. Regulation: WIC 781(d)

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Records Retention and Destruction

223.3.3 CASES FILED, NOT ATHERTON JURISDICTION

(a) Outside Assists, Recovered Property (Including Vehicles)

1. Department Retention: Cur + 2
2. Total Retention: Cur + 2
3. Historic: No
4. Regulation: GC 34090

223.3.4 INDIVIDUAL

(a) Arrest ID Jackets, Index Cards for all but Suspects

1. Department Retention: When all related case files destroyed
2. Total Retention: When all related case files destroyed
3. Historic: No
4. Regulation: Department Policy

(b) Suspect and Alias Index Cards

1. Department Retention: No Criminal Activity + 10 years and after all related case files destroyed
2. Total Retention: No Criminal Activity + 10 years and after all related case files destroyed
3. Historic: No
4. Regulation: Department Policy

223.3.5 REPORTS, NON-CRIMINAL

(a) Natural Death

1. Department Retention: CL + 2
2. Total Retention: CL + 2
3. Historic: No
4. Regulation: GC 34090

(b) Traffic Accidents and Incidents (non-criminal only)

1. Department Retention: CU + 3
2. Total Retention: CU + 3
3. Historic: No
4. Regulation: CCP 338

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(c) Civil Matters, Suspicious Circumstances, Lost and Found Property, Destruction of Property, Welfare Checks, Vehicles (stored, impounded)

1. Department Retention: CU + 2
2. Total Retention: CU + 2
3. Historic: Review
4. Regulation: GC 34090

223.3.6 ORDERS (SUPERIOR COURT IS THE OFFICE OF RECORD)

(a) Restraining Orders, Emergency Protective Orders, Temporary Restraining Orders, Legal Stipulations, Orders After Hearing

1. Department Retention: EX + 3
2. Total Retention: EX + 3
3. Historic: No
4. Regulation: PC 13710

223.3.7 PAWNBROKER

(a) Receipts and Tickets

1. Department Retention: CU + 2
2. Total Retention: CU + 2
3. Historic: No
4. Regulation: GC 34090

223.3.8 REGISTRATIONS

(a) Sex, Arson, Narcotics

1. Department Retention: Permanent
2. Total Retention: Permanent
3. Historic: No
4. Regulation: PC 290, PC 457.1, H&S 11590

223.3.9 WARRANTS

(a) Warrants (Served, Recalled, or Cleared)

1. Department Retention: Inactive + 2
2. Total Retention: Inactive + 2
3. Historic: No

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4. Regulation: GC 34090

223.3.10 TRAFFIC CITATIONS (COURT HAS THE ORIGINAL RECORDS)

(a) Moving, Parking

1. Department Retention: 2
2. Total Retention: 2
3. Historic: No
4. Regulation: GC 34090

223.4 COMMUNICATIONS

223.4.1 RECORDINGS, NOT EVIDENCE

(a) Routine Telephone and Radio Communications

1. Department Retention: 100 Days
2. Total Retention: 100 Days
3. Historic: No
4. Regulation: GC 34090.6

(b) Routine In-Car Audio/Video, Building Video

1. Department Retention: 2
2. Regulation: GC 34090.6

223.5 INTERNAL AFFAIRS

223.5.1 EMPLOYEE DISCIPLINE

(a) Reports, Interviews, Studies, Written Reprimands

1. Department Retention: Min. Closed + 3m / Max Term of Employment +5
2. Total Retention: Min. Closed + 3m / Max Term of Employment +5
3. Historic: No
4. Regulation: Department Policy

223.5.2 ADMINISTRATIVE INVESTIGATIONS (COMPLAINTS AGAINST DEPARTMENT MEMBERS)

(a) Complaints, Interviews, Reports, Findings

1. Department Retention: CL + 5
2. Total Retention: CL + 5

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3. Historic: No
4. Regulation: PC 832.5

223.5.3 ADMINISTRATIVE INVESTIGATIONS (OFFICER INVOLVED SHOOTINGS)

(a) Reports, Interviews, Studies

1. Department Retention: CL + 2
2. Total Retention: CL + 2
3. Historic: No
4. Regulation: Department Policy

223.6 TRAFFIC

223.6.1 REPORTS

(a) Radar Calibration Certificates

1. Department Retention: T + 2
2. Total Retention: T + 2
3. Historic: No
4. Regulation: GC 34090

(b) Radar Surveys, State Wide Integrated Traffic Reporting System (SWITRS) Reports

1. Department Retention: CU + 1
2. Total Retention: CU + 1
3. Historic: No
4. Regulation: Department Policy

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Chapter 3 - General Operations

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Use of Force

300.1 PURPOSE AND SCOPE

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

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

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

300.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

300.2 POLICY

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

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

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Use of Force

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

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

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

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

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

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

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

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

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

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

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

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

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

300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

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

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

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

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

(e) The effects of suspected drugs or alcohol.

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

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

(h) Proximity of weapons or dangerous improvised devices.

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

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

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

(l) Training and experience of the officer.

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

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

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

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

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

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

(s) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

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

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

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

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

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

300.3.4 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 Atherton Police Department for this specific purpose.

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300.3.5 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.

300.3.6 RESTRICTIONS ON THE USE OF A CHOKE HOLD

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

300.3.7 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

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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).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

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

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

300.4.2 DISPLAYING OF FIREARMS

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

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

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

300.5.1 NOTIFICATION TO SUPERVISORS

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

(a) The application caused a visible injury.

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

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

(d) The individual indicates intent to pursue litigation.

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

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

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

(h) An individual was struck or kicked.

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

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

300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

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

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

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

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

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITY

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

(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.

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3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

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

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

(f) Review and approve all related reports.

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

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

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

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

300.7.1 WATCH COMMANDER RESPONSIBILITY
The Watch Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy.

300.8 TRAINING

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

Subject to available resources, the Training Manager 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 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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300.10 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)).

300.11 POLICY AVAILABILITY

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

300.12 PUBLIC RECORDS REQUESTS

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

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Oleoresin Capiscum

301.1 POLICY

(a) The purpose of this policy to establish guidelines for the use and deployment of Oleoresin Capsicum Spray, or O.C. Spray. These guidelines are not intended to regulate an officer's field tactics or decision to use this tool, rather, they are intended to direct officers in acceptable procedures, responsibilities and aftercare of those who are sprayed with O.C. Spray.

(b) This policy is intended for those incidents where human subjects are exposed to O.C. spray. This policy is not intended for use on aggressive animals.

(c) Members of the Atherton Police Department are not required to carry O.C. spray. The decision whether or not to carry O.C. spray is left up to the individual member.

301.1.1 USE OF OLEORESIN CAPSICUM

(a) The decision of an officer to use O.C. Spray will be left up to the tactical considerations made by the officer at the time of an incident.

(b) Each officer who uses O.C. Spray during an incident shall follow the directives for Use of Force.

(c) Although this General Order does not restrict an officer's decision to deploy O.C. Spray, there are circumstances in which officers should avoid using O.C. Spray. However, it is understood each incident requiring the use of force is unique and cannot be predicted prior to occurring.

(d) Officers should avoid using O.C. Spray when:

1. Juvenile suspects are involved.
2. In crowd control situations where the deployment of O.C. Spray on a large group of people may cause an adverse, tactical reaction.
3. On mentally disturbed individuals.
4. On individuals who appear to be under the influence of a controlled substance.

(e) Officers should not view the above listed circumstances as prohibitive. Officers should understand in some instances O.C. Spray may have little or no effect, or may cause an adverse effect that could potentially escalate an incident to the use of greater force.

301.1.2 PROCEDURES FOR AFTERCARE

(a) When an officer uses O.C. Spray on a subject, only after the subject is under control officers should:

1. Contact the Watch Commander and advise him/her of the use of O.C. Spray.

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2. Request medical personnel to treat the subject for exposure to O.C. Spray, or
3. Provide/apply water to the subject to relieve him/her of the effects of the O.C. Spray.
4. Inquire of the subject if medical attention is requested.
5. Prepare a written report of the incident documenting the circumstances requiring the use of O.C. Spray.
6. These procedures are to be followed unless the subject's combative actions prohibit following them.

301.1.3 SUPERVISOR'S RESPONSIBILITIES

(a) When possible, the Watch Commander should proceed to the scene of the incident to gather evidence relating to the incident and the use of O.C. Spray.

(b) Insure that proper first aid/medical treatment is requested or administered.

(c) Determine if any police personnel or bystanders have been exposed and are in need of medical attention.

(d) Review subsequent written reports to determine if the use of O.C. Spray was appropriate.

(e) Determine if any future training issues need to be addressed.

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Multi-Jurisdictional Officer Involved Shooting and Fatalities Procedure

302.1 POLICY

(a) It is the intent of this policy to establish guidelines and responsibilities of the Atherton Police Department and its members in the event a member of this Department is involved in any incident resulting in fatal injuries to any person.

(b) It shall be the policy of this Department to follow the established guidelines of the San Mateo County Officer Involved Critical Incident Protocol, revised in October of 1994.

302.2 PROCEDURES

302.2.1 TRAFFIC COLLISIONS

(a) Under the agreed upon protocol, the California Highway Patrol is responsible for, and will assume investigative responsibility for any on-duty officer involved fatal, or potentially fatal, traffic collision.

(b) All members of this Department, at the scene of a fatal or potentially fatal traffic collision involving Departmental personnel, will recognize the need to protect others from further injury and protect the scene and any evidence from contamination or alteration.

(c) The Watch Commander should, unless circumstances preclude it, use and follow the protocol checklist developed in this protocol.

1. The Watch Commander, as soon as practical, shall notify the Commander of the critical incident. In the absence of the Commander, the Chief of Police will be notified.
2. It is the responsibility of the Watch Commander to insure proper and safe scene management.

(d) Upon the arrival of the California Highway Patrol, the Highway Patrol Officer should, if it is in his/her presence, use and follow the approved protocol checklist.

1. The Watch Commander should be prepared to provide such a checklist if the CHP does not have one.

302.2.2 OFFICER INVOLVED CRITICAL INCIDENTS

(a) All members of this Department, at the scene of a fatal or potentially fatal critical incident involving Departmental personnel, will recognize the need to protect others from further injury and protect the scene and any evidence from contamination or alteration.

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(b) The Watch Commander should, unless circumstances preclude it, use and follow the protocol checklist developed in this protocol.

(c) A critical incident will include, but is not limited to:

1. An officer involved shooting; whether the officer was shooting or was the victim, injured or otherwise.
2. Extreme use of force was used to take a subject into custody.
3. An in-custody death occurs.

(d) **Supervisor's Responsibilities:**

1. The Watch Commander should, unless circumstances preclude it, use and follow the protocol checklist developed in this protocol.
2. The Watch Commander, as soon as practical, shall notify the Commander of the critical incident. In the absence of the Commander, the Chief of Police will be notified.
3. It is the responsibility of the Watch Commander to insure proper and safe scene management.
4. Determine if a countywide broadcast is necessary for BOL or Code 666 requests.
5. Determine if mutual aid resources are needed from another police agency.
6. Recognize and understand an officer's rights as they pertain to the Public Safety Officers Procedural Bill of Rights.

(e) **Involved Officer Responsibilities:**

1. Each officer of this Department, when involved in a critical incident involving a fatality or potential fatality shall:
   (a) Immediately request assistance and notify the Watch Commander after a critical incident has occured.
   (b) Determine if life saving measures are required and provide those measures when practical.
   (c) Do not discuss the incident with any member of the press or media.
2. Each officer should be aware that in addition to a criminal investigation, an administrative investigation will be conducted to determine if Departmental policy was followed.
   (a) Officers should not be made to feel that they have done something wrong for being involved in a critical incident, however, it is the purpose of these two investigations to determine the officer's involvement in the incident.

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3. At the scene of a critical incident, if necessary information is required to determine the circumstances of the incident, the involved officer must cooperate with the Watch Commander to determine:
    (a) If any suspects are outstanding.
    (b) How many gun shots may have been fired.
    (c) If any other persons are involved or may be witnesses.
    (d) Any other information necessary for proper scene management.

302.3 OTHER RESPONSIBILITIES OF TOWN INCIDENTS

(a) Any time a member of the Atherton Police Department is involved in a critical incident or officer involved fatality, the Chief of Police may direct an Internal Affairs Investigator to determine if the policies, procedures and orders of the Department have been followed.

(b) If any member of this Department is involved in a critical incident or officer involved fatality outside the Town of Atherton, it shall be the responsibility of the allied agency to conduct the necessary investigation.

1. In this event, the Chief of Police may contact the Chief of Police or Sheriff of the allied agency and request that an investigator from this Department assist in the investigation.
2. It shall be the responsibility of the Watch Commander to respond to the scene of an out-of-town incident to assist in the coordination of resources and the investigation.
    (a) Once on scene, the Watch Commander shall notify the Commander, or other member of the Department's chain-of-command as is necessary.

(c) In all cases, any criminal investigation being conducted shall have priority over an administrative investigation, however, both investigations may occur at the same time.

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Flash/Sound Diversionary Devices

303.1 PURPOSE AND SCOPE

Within the scope of police operations, the preservation of life and property is paramount. Specialty devices which provide law enforcement personnel a tactical advantage to more safely engage in the furtherance of such goals is a sound police practice. Reasonable utilization of Flash/Sound Diversionary Devices which provide distracting stimuli to the visual, auditory and equilibrium systems of a suspect(s), under specific conditions, and by qualified personnel, can safely provide a substantial contribution toward the successful resolution of a critical incident. This policy provides guidelines for the training, storage, deployment, and reporting requirements for the use of Flash/ Sound Diversionary Devices.

303.1.1 DEFINITIONS

A Flash/Sound Diversionary Device, also known as a Distraction Device (DD), is a low explosive device emitting heat, light and sound by means of deflagration.

§ 555.210 Construction of type 4 magazines. A type 4 magazine is a building, igloo or ‘‘Army-type structure’’, tunnel, dugout, box, trailer, or a semitrailer or other mobile magazine.

303.1.2 INDOOR MAGAZINE

Indoor magazines are to be fire-resistant and theft-resistant. They need not be weather-resistant if the buildings in which they are stored provide protection from the weather. No indoor magazine is to be located in a residence or dwelling. The indoor storage of low explosives must not exceed a quantity of 50 pounds. More than one indoor magazine may be located in the same building if the total quantity of explosive materials stored does not exceed 50 pounds. Detonators that will not mass detonate must be stored in a separate magazine and the total number of electric detonators must not exceed 5,000.

303.2 POLICY

It shall be the policy of this Department to authorize the use of DD's by authorized personnel under reasonable circumstances, subject to the guidelines and limitations contained within this policy.

303.3 TRAINING

Only properly trained law enforcement personnel in the use of DD's, in accordance with this section, shall be issued DD's. Training on the utilization of DD's shall be conducted by a trainer certified at instructor-level by the manufacturer of the DD utilized by the Department.

It shall be the responsibility of qualified Department employee(s) assigned as DD instructors to insure that all Department employees issued DD's are trained to a level of competency as specified by the manufacturer of the DD, and that the training is conducted in a manor reasonably consistent with the manufacturer's specifications for operator-level certification. Such training shall include actual deployment of live DD's.

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If the training is conducted by non-Departmental personnel, it shall be the responsibility of the Training Manager, or his/her designee, to ensure that Department trainees have received certification to operate the DD in accordance with the manufacturer's specifications for operator-level training.

Re-certification, if any, shall follow the requirements and time-lines established by the DD manufacturer. All Department personnel issued DD's shall be required to maintain certification to operate the device, and upon the lapse of such certification, the Department DD Instructor shall ensure the DD's issued to such personnel are returned to the magazine.

303.4 STORAGE

Storage of DD's shall follow the guidelines contained in this section:

(a) Permanent storage:

1. All non-issued DD's shall be stored at the police facility.
2. All DD's stored at the police facility shall be contained in a Type IV magazine (27 CFR 555.203(b)).
3. Officers to whom DD's have been issued shall store them in a manner consistent with this section.
4. All DD's will be inventoried by the Range Master Supervisor, complete with photographs and serial numbers. The inventory will be cataloged on the PDWEB Range section.

(b) This section does not apply to any DD's which are (27 CFR 555.205):

1. Being physically handled in the operating process of a licensee or user, or
2. Being used, or
3. Being transported to a place of storage or use by a licensee or permittee, or by a person who has lawfully acquired explosive materials under 27 CFR §555.106.

303.5 DEPLOYMENT

Except in emergency situations, the following deployment guidelines shall be adhered to:

(a) Training deployments shall require the consent of the DD Instructor and shall be in accordance with the established lesson plan.

(b) Non-training deployment of a DD requires supervisory authorization.

(c) Only personnel trained per Policy § 304.3 may deploy a DD outside of a training environment.

303.5.1 SAFETY CONSIDERATIONS

The following safety equipment shall be worn/available, as applicable, in all DD deployments:

(a) Eye Protection shall be worn by all personnel in the vicinity.

(b) Hearing protection shall be worn during training exercises, and should be worn for all non-training deployments.

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(c) Nomex or leather gloves shall be worn by any personnel deploying or handling recently deployed DD's.

(d) A nomex balaclava shall be worn by any person deploying a DD, or any personnel within the immediate deflagration area of a DD.

(e) Long sleeves, rolled down, shall be worn by any person deploying a DD, or any personnel within the immediate deflagration area of a DD.

(f) A portable fire extinguisher shall be readily available for all deployments.

(g) Officers transporting DD’s on their person should do so in pouches specifically designed for the carrying of DD's.

303.5.2 JUSTIFICATION FOR USE

DD's may be utilized in circumstances in which a suspect(s) poses a reasonable and articulable threat to life or property, and use of the DD could assist law enforcement in a safer resolution of the incident. Such incidents may include, but are not limited to, the following:

(a) Hostage rescue

(b) To provide distraction to a potentially dangerous suspect to help effectuate his/her arrest

(c) To help prevent a shooting

303.5.3 EXCLUSIONS FOR USE

DD's shall not be used when any of the following conditions or circumstances are present:

(a) Within the confines, or in the immediate vicinity, of a known or suspected narcotics lab.

(b) In an indoor environment within which there is a significant concentration/quantity of flammable liquids or explosive gases.

(c) When there are known infants, pregnant women or elderly persons present, unless other aggravating factors would reasonably justify use.

303.5.4 OTHER DEPLOYMENT CONSIDERATIONS

(a) Any DD failing to initiate properly shall be handled per the manufacturer-specified Render Safe Procedure (RSP).

(b) Prior to deploying a distraction device, the deploying officer shall conduct a visual examination of the area in which the device is to be deployed, checking for the presence of any precluding factors/conditions, the reasonable presence of which shall preclude such deployment.

(c) DD's shall not be deployed directly onto a person unless deadly force is justified.

(d) DD's may be hand thrown, based on operational needs.

DD'smaybehandthrown, baseduponoperationalneeds.

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303.6 DOCUMENTATION

Any time a DD is used, and the circumstances requiring its use, shall be documented in the related report(s). The officer should include the following in the report:

(a) Circumstances leading to the deployment.

(b) Observations of the suspect's physical and physiological actions.

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

(d) The shift supervisor shall be responsible for ensuring that the use of the DD is documented and the type of force is indicated, and shall ensure that a supervisor is notified.

(e) The shift supervisor will also ensure that photographs of the subject area of deployment are taken as soon as practical at the scene and at the hospital or jail by the arresting officer.

(f) The Commander and Chief will be notified of such deployment as soon as practical.

(g) ATF reporting requirements will be adhered to, and such report will be made by the on-duty supervisor as soon as practical.

Any known or suspected drug use or other medical problems

303.6.1 ATF REPORTING REQUIREMENTS

Agencies must report expended NFDDs monthly, quarterly, annually, or upon the liquidation of an order to ATF's National Firearms Act (NFA) Branch on official letterhead. The notification must contain the name of the distraction devices manufacturer, the model number, and the serial number. The agency may fax or mail the notification to the NFA Branch below:

Bureau of ATF

National Firearms Act Branch

244 Needy Road

Martinsburg, WV 25405

304-616-4500

304-616-4501 (FAX)

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Impact Weapons

304.1 PURPOSE

This General Order is to establish the procedures for training and certification of impact weapons.

304.1.1 DEFINITION

(a) Types of Impact Weapons:

1. Long Baton (36" to 48").
2. 54" Riot Baton.
3. Expandable or collapsible versions of the above (ASP).
4. Straight Wooden Baton:
   (a) Made of commercially manufactured solid hard wood.
   (b) Between 26" and 29" in length.
   (c) Diameter between 1 3/16" and 1 1/4".
   (d) The baton shall have a rubber grommet.

(b) For the purpose of this section, "sworn personnel" includes those employees who carry and/or use any of these weapons in the scope and course of their assigned duties.

304.1.2 POLICY

(a) All sworn personnel shall be certified in the use of the collapsible baton (ASP), straight wooden baton, or both.

1. Permissible training shall include training received while attending a P.O.S.T. approved training academy, advanced officer training, or from a trained, Departmental employee certified to teach the use of such weapons.

(b) The collapsible baton (ASP) is provided to all sworn personnel by the Department.

304.1.3 RECORDS

The Training Manager shall maintain a record of the standards of training and certification for each impact weapon.

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Handcuffing and Restraints

305.1 PURPOSE AND SCOPE

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

305.2 POLICY

The Atherton 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.

305.3 USE OF RESTRAINTS

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

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

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

305.3.1 RESTRAINT OF DETAINEES

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

305.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg 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.

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

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determination that such restraints are necessary for the safety of the arrestee, officers, or others (Penal Code § 3407; Penal Code § 6030).

305.3.3 RESTRAINT OF JUVENILES

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

305.3.4 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.

305.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

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

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

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

305.5 APPLICATION OF SPIT HOODS

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

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

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and so that the restrained person can breathe normally. Officers should provide assistance during the movement of a restrained person due to the potential for impairing

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or distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

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

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

305.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg 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.

305.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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

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

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

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

305.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

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

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

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(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 emergency medical services, 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 person (e.g., prolonged struggle, extreme agitation, impaired respiration).

305.7.2 POLICY

When an officer deems it reasonable to restrain the legs of a violent or potentially violent person during the course of a detention, arrest and/or transportation, only restraint devices approved by the Department shall be used, and only in the departmentally approved manner for such temporary immobilization of the legs. The shift supervisor will ensure that the WRAP Restraint is located in their vehicle at the beginning of their assigned shift.

305.7.3 AUTHORIZED RESTRAINT

The WRAP Restraint manufactured by Safe Restraints, Inc., Park City, Utah, is the only restraint authorized by this Department. Officers shall only use the WRAP Restraint supplied by the Department.

305.7.4 USE GUIDELINES

In determining whether to use the WRAP Restraint, officers should consider the following:

(a) Is the officer and/or others subject to harm due to the assaultive behavior of a violent, resisting and/or attacking suspect.

(b) Whether officers anticipate possible violent or combative behavior.

(c) To protect a person from his or her own actions which would place him/her in danger (e.g., hitting his or her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).

(d) The restraint shall be used only after a person has been handcuffed.

305.7.5 PROCEDURE

The restraint device is designed to reduce the likelihood of injury to the restrained person or others and to reduce the likelihood of property damage caused by the restrained person by preventing them from using his/her legs in a manner likely to result in injury or property damage. The restraint will only be used to bind and immobilize a person's legs. Only those officers trained in the use

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of the restraint are authorized to employ it on any person. The following guidelines shall be used when applying the restraint device:

(a) If practical, officer(s) should notify a supervisor of the intent to apply the restraint. In all cases, a supervisor shall be notified as soon as practical after the application of the restraint.

(b) The WRAP can be applied by one person if the subject is passive, but for violent/ combative subjects, three or more people should be used.

(c) Only qualified officers who have received training in the use of the WRAP should apply this restraining device. Refer to the training manual for application guidelines.

(d) Once secured, the suspect shall be placed on their side or in a seated position. This will increase the oxygen recovery rate and reduce the incidence of respiratory fatigue or positional asphyxia often caused by a subject being restrained in the prone position.

(e) The shoulder harness should never be tightened to the point that it interferes with the subject's ability to breathe.

(f) Absent a medical emergency, the person being restrained shall remain restrained until the officer arrives at the jail or other facility or the person no longer poses a threat.

(g) The suspect should be constantly watched by an officer while in the restraint, the subject should never be left unattended.

(h) The officer shall look for signs of labored breathing. If the restrained subject complains of or displays signs of breathing distress (shortness of breath, sudden calmness, a change of facial color, etc), medical attention should be provided immediately.

(i) The WRAP is a temporary restraining device and is not escape proof. The leg bands and shoulder harness must be checked frequently for tightness and re-tightened or loosened as necessary until the WRAP is removed.

305.7.6 TRANSPORTING RESTRAINED SUBJECTS

When transporting a person who has been restrained with the WRAP, officers shall observe the following procedures:

(a) To carry the restrained person, two to four personnel should be used depending on the size and weight of the subject. Proper lifting techniques should be used to prevent injury to officers.

(b) As an alternative to lifting, the subject may be moved by means of a shuffle. If the subject is cooperative, the lower WRAP leg band can be loosened to allow some leg movement below the knees without compromising security or safety. By loosening the tether to the shoulder harness, the subject can be brought to a standing position with the help of officers and then allowed to shuffle to or from a vehicle or holding cell. If this method is used, appropriate support must be given to the subject to prevent possible injury by falling.

(c) Restrained persons may be transported in a patrol unit. Prior to transportation, re-check all belts to ensure that they are securely fastened. The subject shall be seated

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in an upright position and secured by a seat belt. When the suspect cannot be transported in a seated position he/she shall be taken by ambulance/paramedic unit.

(d) When taken by ambulance/paramedic unit, the suspect shall be accompanied by an officer.

(e) Officers shall inform the jail staff that the arrestee was restrained by use of a WRAP Restraint device prior to arrival at the jail.

305.7.7 DOCUMENTATION

Any time the WRAP Restraint device is used, the circumstances requiring its use shall be documented in the related report(s). The officer should include the following in the report:

(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 physical and physiological actions.

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

(e) The shift supervisor shall be responsible for ensuring that the use of force is documented and the type of force is indicated, and shall ensure that a supervisor is notified.

(f) The shift supervisor will also ensure that photographs of the subject are taken as soon as practical at the scene, and at the hospital or jail by the arresting officer.

305.7.8 STORAGE AND PREPARATION FOR RE-USE

It is important that the WRAP is immediately ready for use and prepared for storage in a way that prevents the loop fastening material on the bands from becoming dirty or entangled. This allows the WRAP to be quickly laid out next to the subject and applied without the confusion of having to untangle the bands. The WRAP shall be kept in the provided storage bag as follows:

(a) The WRAP shall be inspected after each use for signs of wear or damage. If cleaning is necessary, a mild soapy solution may be used. If blood or other bodily fluids must be cleaned from the WRAP, follow hazardous biological cleaning protocol. Allow the WRAP to thoroughly air dry prior to storage.

(b) Lay the WRAP on a flat surface with the leg band side up and detach the shoulder harness. Extend each of the leg bands out flat.

(c) Individually fold each of the leg bands back onto itself so that the fold of the band protrudes an inch or two from the edge of the WRAP body.

(d) Be sure the retaining "D" ring on the body of the WRAP and harness is open and ready for use.

(e) Keeping the bands inside, roll the WRAP tightly towards the buckle and secure with the ankle strap and place in the storage bag.

(f) Fully extend the harness buckles and tether. Attach buckles to its counterpart and roll the harness up and place it in the storage bag compartment.

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305.8 REQUIRED DOCUMENTATION

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

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

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

(a) The factors that led to the decision to use restraints.

(b) Supervisor notification and approval of restraint use.

(c) The types of restraint used.

(d) The amount of time the person was restrained.

(e) How the person was transported and the position of the person during transport.

(f) Observations of the person's behavior and any signs of physiological problems.

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

305.9 TRAINING

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

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

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

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

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

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Control Devices and Techniques

306.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices and Less Lethal Impact Munitions (LLIMs) that are described in this policy.

306.2 POLICY

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

306.3 ISSUING, CARRYING AND USING CONTROL DEVICES AND LLIMS

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 or LLIMs 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 or LLIMs, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

306.4 RESPONSIBILITIES

306.4.1 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander may authorize the use of a control device/LLIMS by selected personnel or members of specialized units who have successfully completed the required training. It is noted that Watch Commander authorization is not required.

The Watch Commander will respond to all use of force incidents and conduct a preliminary investigation into the use of force. The Watch Commander will document the incident, and assign personnel to photograph the subject at the scene and at the hospital or jail.

306.4.2 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. The Rangemaster will ensure that initial and annual training are provided for LLIMs.

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

306.4.3 USER RESPONSIBILITIES

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

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Rangemaster for disposition. Damage to Town property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

306.5 BATON GUIDELINES

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

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

306.6 TEAR GAS GUIDELINES

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

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

306.7 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.

306.7.1 OC SPRAY

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

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306.7.2 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.

306.7.3 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.

306.8 POST-APPLICATION NOTICE

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

306.9 LESS LETHAL IMPACT MUNITIONS GUIDELINES

This department is committed to reducing the potential for violent confrontations. LLIMs, 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.

306.9.1 DEPLOYMENT AND USE

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

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer 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. A lethal force cover officer will be present when deploying LLIMs.

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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.

306.9.2 DEPLOYMENT CONSIDERATIONS

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

(a) Distance and angle to target.

(b) Type of munitions employed (standard range or extended range LLIMs).

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

(d) The location of the subject.

(e) 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 a LLIMs 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, neck 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.

306.9.3 SAFETY PROCEDURES

Officers will inspect the 40mm launcher and projectiles at the beginning of each shift to ensure that the 40mm launcher 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 40mm launcher will be unloaded and properly and securely stored in the vehicle.

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306.9.4 PROVIDING FIRST AID AFTER USE OF LLIMS

Officers will obtain a medical clearance for an arrestee who has been immobilized by the use of a LLIMs.

Jail personnel will be advised that the arrestee was immobilized by the use of a LLIMs.

306.10 TRAINING FOR CONTROL DEVICES / LLIMS

The Training Manager shall ensure that all personnel are properly trained and certified to deploy a LLIM or specific control device listed in this policy, and are retrained or recertified as necessary.

- Proficiency training shall be monitored and documented by a certified instructor.
- All training and proficiency for control devices and LLIMs will be documented in the officer's training file.
- Officers who fail to demonstrate proficiency with the control device / LLIMs 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 / LLIMs or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device / LLIMs and may be subject to discipline.

306.11 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

307.1 PURPOSE AND SCOPE

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

307.2 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.

307.3 ISSUANCE AND CARRYING CEDS

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

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

CEDs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

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

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

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

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

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

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

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

307.3.1 USER RESPONSIBILITIES

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

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

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307.4 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.

307.5 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.

307.5.1 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.

307.5.2 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.

307.5.3 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.

307.5.4 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.

307.5.5 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 (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

307.5.6 DANGEROUS ANIMALS

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

307.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEDs while off-duty.

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

307.6 DOCUMENTATION

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

307.6.1 CED REPORT FORM

As applicable based on the device type, items that shall be included in the CED report form are:

(a) The brand, model, and serial number of the CED and any cartridge/magazine.

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

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

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

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

(f) The type of mode used (e.g., probe deployment, drive-stun).

(g) Location of any probe impact.

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

(i) Description of where missed probes went.

(j) Whether medical care was provided to the subject.

(k) Whether the subject sustained any injuries.

(l) Whether any officers sustained any injuries.

The Training Manager should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Manager should also conduct audits of CED

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device data downloaded to an approved location and reconcile CED report forms with recorded activations. CED information and statistics, with identifying information removed, should periodically be made available to the public.

307.6.2 REPORTS

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

(a) Identification of all personnel firing CEDs

(b) Identification of all witnesses

(c) Medical care provided to the subject

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

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

307.7 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).

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307.8 SUPERVISOR RESPONSIBILITIES

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

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

307.9 TRAINING

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

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

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

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

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

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

The Training Manager should include the following training:

(a) A review of this policy.

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

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

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

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

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

(g) De-escalation techniques.

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(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

308.1 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.

308.1.1 ADMINISTRATIVE CONSIDERATIONS

(a) ADMINISTRATIVE INVESTIGATION:

1. The Administrative Investigation should be initiated at the same time the Criminal Investigation is begun.
2. The purpose of the Internal Affairs Investigation is to determine if departmental policies or regulations have been violated.
3. The Criminal Investigation of Officer Involved Critical Incidents shall have priority. However, the Administrative Investigators shall have access to the incident scene, evidence or any information obtained at all times.
4. No one shall Mirandize nor compel an involved officer to make a statement until they have first consulted with Criminal Investigators or the District Attorney.

308.2 INVESTIGATION RESPONSIBILITY

308.2.1 ARRIVAL AT SCENE

(a) Record your arrival time.

(b) Notify Communications to preserve tapes of incident.

(c) Record outside weather/temperature conditions.

(d) Gather information from patrol unit(s) or other personnel assigned at scene.

(e) Obtain and review Uniformed Personnel checklist to determine that all essential preliminary matters have been completed.

(f) Consider legality of scene access:

1. A Search Warrant may be necessary.
2. Consult on-call homicide Deputy D.A.

(g) Location and condition of involved officer(s).

(h) Ascertain custody status of suspect(s) in custody or not?

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(i) If other parties are injured:

1. If ambulance has been summoned & destination.
2. I.D. of officer(s) who went with ambulance.

(j) Number of witnesses present:

1. Insure that witnesses are separated and identified.
2. Insure that witnesses remain available for interview.

308.2.2 INCIDENT SCENE CONTROL

(a) Identify perimeter of the scene.

1. Adjust scene perimeter as necessary.
2. Implement procedures to safeguard all evidence found at scene.
3. Implement procedures to protect evidence from inclement weather.
4. Post officer to restrict access to essential persons.
5. Assign an officer to log names/units of personnel involved at scene
6. Establish a single entry/exit path to the scene.

(b) Record names of all parties who altered the scene prior to and during police presence.

(c) Implement procedures for continued protection of scene.

(d) Insure that all police/medical/coroner generated debris be placed in a plastic bag to be removed by coroner, e.g., bandages, latex gloves, oxygen masks. Syringes must be secured in a hard container.

308.2.3 INVESTIGATIVE NOTIFICATIONS

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

(a) Chief of Police

(b) Investigations Commander

(c) San Mateo County Officer Involved Protocol Rollout Team

(d) Outside Agency Investigator (if appropriate)

(e) Sergeant / Supervisor

(f) Civil Liability Response Team

(g) Psychological / Peer Support Personnel

(h) Chaplain

(i) Coroner (if necessary)

(j) Involved Officer's Agency Representative (if needed)

(k) Public Information Officer

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(l) Crime Lab

(m) District Attorney

308.2.4 SUSPECT INFORMATION

(a) Safeguard all evidence found on the suspect.

1. Record where the evidence is found.

(b) Remove and bag shoes to preserve trace evidence.

(c) Insure that suspect does not wash his hands. PRESERVE EVIDENCE. (Consider G.S.R. and Trace Evidence)

(d) Do not allow suspect to be taken inside scene, if arrested elsewhere.

1. Remove suspect from scene.

(e) Record demeanor or emotional state of suspect.

(f) Assign officer to remain with suspect. Instruct officer to refrain from questioning suspect but to record all statements. Isolate suspect from witnesses or spectators who may be present.

(g) Collect and retain all urine voids.

(h) Take full-length photo of suspect in clothing worn at time of arrest.

(i) Photograph and document all wounds, blood stains, and trace evidence prior to collection from suspect.

(j) Collect clothing and bag each item separately.

308.2.5 INVOLVED OFFICER INFORMATION

(a) For the purpose of this protocol, the involved officer will be defined as the most significantly involved officer, i.e., the shooter, driver or victim.

(b) Establish the location of involved officer(s).

(c) Determine actions of involved officer(s) i.e., shooter, driver, witness.

(d) If incident is officer involved shooting, secure officer's firearm and duty rig to be turned over to Crime Lab personnel. Re-issue a new gun and other equipment as soon as possible.

(e) Remove involved officer(s) from scene and isolate from each other.

(f) Consider re-issuance of new weapons to involved officers.

(g) Assign non-involved officer or supervisor to remain with most significantly involved officer(s).

(h) Obtain blood and urine samples from most significantly involved officer(s).

(i) Obtain G.S.R. Sample (if applicable) from witnesses and involved officers.

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(j) Photograph involved officer, including full-length photo.

(k) Where applicable, collect involved officer(s) clothing for necessary evidence preservation.

(l) Allow telephone access to involved officer(s) to call for representation, if desired.

(m) Prior to being interviewed, allow involved officer(s) to speak with council, if desired.

(n) Obtain tape recorded statement from involved officer(s). (Do not require involved officer to write report.)

(o) Obtain tape recorded statement from witness officer(s).

(p) Supervisory officer should be designated to insure that an appointment is made with psychological counselor for involved officer(s).

308.2.6 INCIDENT SCENE INVESTIGATION

(a) Implement procedures that ensure no altering of:

1. Position of dead body;
2. Clothing worn by deceased;
3. The overall scene until full documentation is complete.

(b) Maintain scene integrity:

1. Record condition of lights, lamps, T.V., electronic clocks, radio, thermostat setting, etc.
2. Document the changed status of all light switches doors, windows, gates, etc., necessarily unlocked, opened, etc., to permit entry to police.
3. Document location and license numbers of all involved vehicles by measurement to fixed objects and photographs (include police vehicles).

308.2.7 RESPONSIBILITIES OF DECTECTIVE IN CHARGE OF INVESTIGATION

(a) The detective in charge of the investigation must ensure that the following steps are taken by appropriate personnel, e.g., Criminalist, Evidence Technician, Deputy Coroner.

(b) Do not move the body or other evidence until after full documentation has been completed. This will include PHOTOGRAPHS, FINGERPRINTS, MEASUREMENTS and WRITTEN DOCUMENTATION.

(c) Note and record creases, folds on decedent's clothing, bedding, etc., in relation to stab wounds, gunshot holes, etc.

(d) Account for all bullet holes and casings.

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Officer-Involved Shootings and Deaths

308.2.8 EVIDENCE COLLECTION/CONTROL

(a) Prior to handling any evidence, you shall complete the following processes:
    1. Photographs.
    2. Measurements.
    3. Fingerprints.
    4. Documentation.

(b) Ascertain that all evidence is identified.

(c) Establish procedures to protect all evidence.

(d) Photograph evidence in its original position.

(e) Videotape, if available, or request of County Forensic Specialist, if necessary.

(f) Develop chalk outlines as necessary.

(g) Record position/location of evidence.

(h) Measure all evidence to fixed points.

(i) Record name(s) of person discovering evidence.

(j) Initiate proceedings for fingerprinting of evidence.

(k) Record name of person recovering evidence.

(l) Record name of person assigned to transport evidence to station.

(m) Establish procedures for safeguarding evidence pending collecting and marking.

(n) If injured was removed to a hospital, take custody of all clothing, property, etc. Other important evidence may also be located at the hospital, and include such items as the decedent's clothing, projectiles removed from the body, evidence falling onto the floor or gurney from the body, personal items in the decedent's possession, and trace evidence.

(o) Record Deputy Coroner's arrival time.

(p) Direct photography of underside areas as body is turned over: Photograph folds/ creases on clothes, bedding, etc.

308.2.9 CONDUCT DETAILED SEARCH OF CRIME SCENE AREA

(a) Search for blood smears/other evidence on underside of tables, chairs, etc.

(b) Examine trash bins for additional evidence.

(c) Search garages, attics, cellars, roofs, yards, alleys for additional evidence.

(d) Photograph all additional evidence located. Fingerprint as necessary.

(e) Assign officers to canvass immediate area for witnesses as soon as possible.

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1. Consider using prepared questions for canvass activity. (Prepared form available)
2. Record negative responses also.

(f) Record license numbers of all vehicles in the area.

(g) Confirm all witness information placing yourself at their vantage points:

1. Determine what the witness could see from location stated.

(h) Obtain tape recorded statements from all witnesses as soon as possible, including witnesses who give negative responses.

308.3 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.

308.3.1 AUTOPSY

(a) The primary investigator shall attend the autopsy.

(b) A photographer must be assigned to attend the autopsy.

(c) Examine decedent's hands and preserve trace evidence.

(d) Obtain GSR samples from decedent's hands.

308.3.2 BRIEFING THE PATHOLOGIST

The pathologist must be informed of all information that may be relevant to the cause of death or to any condition of the body. These factors shall be included:

(a) Relevant observations made at the scene.

(b) Relevant witness statements.

(c) An accounting of items and evidence removed from the body.

(d) An accounting of any changes in the position of the body since its discovery.

(e) An accounting of any obvious visible changes in the body since first viewed.

(f) Reports of the deputy coroner.

(g) Photographs and sketches that are available at the time of autopsy.

(h) Verbal briefing by Coroner's Deputies.

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(i) Verbal briefing by Criminalists or Evidence Technicians.

308.3.3 ITEMS FOR PATHOLOGIST'S INSPECTION

(a) The detective in charge of the investigation shall consult with the criminalist to determine what items (e.g., knives, guns, weapons, ligatures, etc.) should be brought to the autopsy for examination by the Pathologist.

(b) The Criminalist should insure that all trace evidence on the item, (weapons, ligatures, etc.) have been properly preserved to avoid contamination at the autopsy.

(c) If an item would normally be shown to the pathologist but is not portable, photographs, sketches, diagrams or a detailed description must be available at the time of autopsy.

308.3.4 CLOTHING

(a) All articles of clothing known or suspected to have been worn by the decedent at the time of death and/or injury shall be made available for the pathologist's inspection at the time of autopsy. This includes inner and outer clothing, footwear and jewelry. Police agencies are responsible for bring clothing in their possession to the morgue. In those unusual cases where it is not practical to have clothing present at the time of autopsy, the police agency must make arrangements with the pathologist for timely inspection after autopsy.

(b) If decedent was hospitalized when death occurred, care must be taken to obtain all clothing worn at time of hospital admission.

(c) Extreme care must be taken to prevent contamination of evidence and to avoid the loss of adherent trace material. Evidence which may be lost, contaminated, rearranged or damaged should be recorded, removed and properly packaged before the clothing is transported for display to the pathologist.

308.3.5 MEDICATIONS, POISONS AND INTOXICANTS

(a) Efforts must be made to locate any medication, poison or intoxicant, which could have been taken internally by decedent at or near the time of the fatal event. Containers and paraphernalia for such substances (i.e., needles, syringes, spoons, glasses, labeled drug containers) must be brought to coroner at time of autopsy.

(b) Not included in this section are substances (and their containers), which were directly administered by medical professionals (including emergency life-saving crews) who have documented their use in medical records.

(c) Evidence items brought to Coroner's Office for inspection will normally be retained in the custody of the transporting agency.

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308.3.6 INTEGRITY OF EVIDENCE

Extreme caution must be utilized in handling any item that is displayed to the pathologist. Keep handling to absolute minimum. Items must be protected from **contamination** at autopsy (e.g., blood from autopsy being transferred to a piece of evidence being displayed). Latent fingerprints must be protected. Trace evidence must be protected from loss and contamination. Maintain the chain of custody of such items. (Clean paper is available at the morgue for display of items.)

308.3.7 INVESTIGATING OFFICER'S REPORT OF AUTOPSY

The investigating officer should report pathologist's preliminary opinion on cause of death.

308.3.8 AUTOPSY RULES

(a) All persons attending an autopsy are required to sign the Coroner's Office logbook.

(b) No audio or video recording of an autopsy shall be allowed without the express prior permission of coroner and pathologist.

(c) Attendance at an autopsy by persons other than/coroner's Office personnel is subject to the approval of the coroner (Government Code § 27491.4). The number of people attending an autopsy must be kept to a minimum due to space limitation, evidentiary considerations, and the need to eliminate distractions.

(d) Persons attending an autopsy are present to observe the findings and to collect and record evidence. The extent of their contact with the body will be governed by the pathologist.

(e) Those attending will be asked to adhere to safety guidelines in order to minimize exposure to biohazards. Different standards will apply to those who will be in contact with the body versus those who will only view.

(f) Until the pathologist has inspected the body and given approval, the body at the morgue shall not be disturbed nor its condition altered in any of the following illustrative ways:

1. Movement or removal of clothing.
2. Movement or removal of any weapon or object.
3. Collection of hair standards.
4. Collection of gunshot residue that is associated with wound sites.
5. Clipping or scraping of fingernails.
6. Washing or cleaning.
7. Fingerprinting.

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308.3.9 EXCEPTION

Without the pathologist's approval, fingerprints may be taken from the deceased when **all** the following criteria are met:

(a) There is immediate and serious need to identify the decedent which cannot be satisfied by postponing fingerprinting until after autopsy.

(b) There is no trauma to the areas of the fingers and hands which will have to be manipulated.

(c) The fingers and hands are photographed before being disturbed.

(d) Insure that palm prints are collected.

(e) The hands and fingers have been examined for trace evidence including gunshot residue, if applicable, and it has been photographed and collected if present.

The collection of trace evidence from areas of the body not directly involved with trauma is permissible without the pathologist's approval.

Photography of the body (without disturbing it) is encouraged. The Crime Lab is available to assist in taking high-quality photographs if the agency is unable to provide a photographer. The agency must make arrangements with the Lab in advance.

NOTE: Civil Code of Procedures § 129 prohibits photographing deceased bodies except for law enforcement purposes.

Autopsy attendees who take notes or make diagrams of autopsy results are strongly urged to use great diligence to insure that their notes and diagrams of the pathologist's findings and opinions are accurate by consulting with the pathologist as the notes are prepared.

308.4 JURISDICTION

308.4.1 ATHERTON POLICE DEPARTMENT OFFICER_DEPUTY WITHIN THIS JURISDICTION

Case #:
SAN MATEO COUNTY
Officer Involved CRITICAL Incidents
Involved Officers' Responsibilities
NAME OF INVOLVED OFFICER:
DATE OF OCCURRENCE:
LOCATION OF OCCURRENCE:
NAME OF KNOWN SUSPECT(S):
ASSIGNED INVESTIGATORS:
AREA:

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The following checklist and guidelines apply to personnel who are **INVOLVED IN**, or witnesses to the incident.

The **check-off areas** are presented in a sequential order that is recommended for **officer involved critical incident scene investigation**. Complex factors or other contingencies present in the investigation shall continue to be handled in accordance with established investigative principles and procedures.

DO NOT alter the position of evidence found at the crime scene until **AFTER** PHOTOGRAPHS, MEASUREMENTS, FINGERPRINTS and WRITTEN DOCUMENTATION is complete.

308.4.2 ALLIED AGENCY'S OFFICER WITHIN THIS JURISDICTION

(a) If any possibility of life exists, summon ambulance and apply appropriate rescue and first aid techniques.

(b) Immediately report incident to a supervisor. This includes life threatening or critical information related to suspect description(s) and direction of travel, victim information, number of rounds fired and direction, location of witnesses, etc.

(c) Secure duty firearm(s) discharged in the incident and attempt to maintain in same condition following the last round expended. It will later be collected for evidentiary purposes by a supervisor or member of the investigative team.

(d) Non-lethal police weapon(s) used should be treated as any other piece of physical evidence.

(e) If death is apparent, medical personnel shall be summoned and one medical person shall be allowed to determine if any possibility of life exists.

(f) Do not discuss incident with press witnesses, or citizens.

(g) Protect and maintain integrity of scene until relieved.

308.4.3 ATHERTON POLICE DEPARTMENT OFFICER_DEPUTY IN ANOTHER JURISDICTION

(a) Chemical testing of involved officer(s) will be required as part of the investigation.

(b) The Public Safety Officers Procedural Bill of Rights will be adhered to.

(c) Following the initial investigation, officers involved in the incident will be placed on administrative leave.

(d) Referral to an employee assistance program or other mental health professional is appropriate and can be expected.

308.5 THE INVESTIGATION PROCESS

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Officer-Involved Shootings and Deaths

308.5.1 DUTIES OF INITIAL ON SCENE SUPERVISOR

Case #:
SAN MATEO COUNTY
Officer Involved CRITICAL Incidents
Patrol Sergeant / First Non-Involved Officer
NAME OF INVOLVED OFFICER:
DATE OF OCCURRENCE:
LOCATION OF OCCURRENCE:
NAME OF KNOWN SUSPECT(S):
ASSIGNED INVESTIGATOR:
AREA:
YOU are considered in charge of the scene until relieved by a senior officer. Immediately get a quick briefing as to what happened to give you an idea of who and what is needed and the extent of the scene. The **check-off areas** are presented in a sequential order that is recommended for **officer involved critical incident scene investigation**. Complex factors or other contingencies present in the investigation shall continue to be handled in accordance with established investigative principles and procedures. **DO NOT** alter the position of evidence found at the crime scene until **AFTER** PHOTOGRAPHS, MEASUREMENTS, FINGERPRINTS and WRITEN DOCUMENTATION is complete.

308.5.2 ARRIVAL AT SCENE

(a) Life saving efforts are a **first priority**. Make certain any injured are treated immediately.

(b) If the suspect(s) has fled the scene, broadcast a description and/or direction of travel as soon as possible. Contact the involved officers **(questions concerning scene management and public safety only).**

(c) Are all suspects and weapons accounted for?

(d) Identify officers (witnesses who were involved in the incident. These officers should be relieved of any responsibility in the investigation and removed from scene. They should be instructed **not to talk** to anyone other than the designated investigator(s).

(e) Record exact time call received and type of call broadcasted.

(f) Record exact time of arrival.

(g) Request additional uniform personnel, as necessary to secure the scene and manage he incident.

(h) Consider initiating the Incident Command System.

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(i) Protect sensitive investigative information.

(j) Use caution on all radio broadcasts.

(k) Use of phones: Be aware that cellular phone traffic can be intercepted easily.

308.5.3 INJURED PARTIES

(a) Assign an officer to ride in the ambulance with the injured parties **with tape recorder** if possible to insure: (give specific instructions).

(b) Protection of any physical evidence, recovery and security.

(c) Maintain custody of any prisoners.

(d) Obtain any spontaneous or unsolicited statements as well as a **dying declaration.**

(e) Obtain any information from medical personnel and be able to provide them with information (i.e., condition of suspect(s), injuries).

(f) Identify anyone having contact with the injured party (ambulance personnel, family of victim) **call for help if needed.**

308.5.4 MEDIA RELATIONS

(a) No smoking, by anyone, permitted inside scene area.

(b) Do not turn water on or flush toilets.

(c) Obtain log of names of **ALL** personnel who entered crime scene area.

(d) Preserve and protect footprints/tire tracks, etc.

(e) Begin "Call Up", per Department Procedures. Provide **call back** number where you can be contacted. **DO NOT USE THE TELEPHONE IN THE SCENE.**

1. Investigation Personnel Call Up.
2. Notify and request District Attorney staff.
3. Request San Mateo County Crime Lab.
4. Press Information Center.

308.5.5 INVOLVED OFFICERS

(a) Radio broadcasts on outstanding suspects, vehicle and witnesses.

(b) **Code 666** County roadblock requested?

(c) Update information to Communications.

308.5.6 IMMEDIATE EVIDENCE CONCERNS

(a) Protect/preserve perishable evidence.

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(b) Gunshot Residue (GSR) on suspects, victims and any possible parties involved.

(c) Identify and secure entire scene.

(d) Isolate immediate crime scene area with crime scene tape. Make the area large with generous perimeters (area can always be reduced later).

(e) Determine escape or chase routes. Arrange to isolate relevant scenes.

(f) Secure suspect, victim or involved vehicles.

(g) Be prepared to adjust crime scene boundaries outward if necessary.

(h) Limit entry into all scene(s) to absolute minimum. Only essential persons allowed inside the scene.

(i) Arrange for a Scene Log to be started to record every entry and exit into any of the scenes documented. All persons entering identified.

308.5.7 INVOLVED OFFICER(S)

(a) Involved Officer(s) with guns in possession or at the scene:

1. Leave in holster. The entire gun belt will be collected by investigations personnel in order to protect trace evidence.
2. If weapon is not in the officer's possession at scene, leave weapon(s) in place, **untouched**, if safe.
3. Arrange to have officer(s) photographed as they were at the time of incident.

308.5.8 WITNESS OFFICER(S)

(a) Have Shooting Officer(s) and 'Witness Officer(s) taken to the station by independent officer(s).

(b) All involved officers (shooting and Witness) sequestered with independent/peer support until investigators interview.

(c) Order all officers **NOT TO DISCUSS** with each other about the incident (except to legal counsel).

308.5.9 CIVILIAN WITNESSES

(a) Locate, identify and sequester all civilian witnesses at the scene.

(b) Photograph the crowd and scene, if possible.

(c) Start an AREA CANVASS for additional witnesses, locating relevant vehicles, weapons, etc.

(d) Give specific directions to canvass officers. Use **Area Canvass** Form is possible.

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(e) Determine what responding officers have learned and what they have done ask for updates.

(f) Arrange your thoughts and be prepared to brief investigators when they arrive.

308.5.10 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 Watch Commander 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.

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

308.6 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 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) APD supervisors and Sergeant personnel should not participate directly in any voluntary interview of APD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.

(b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the officer's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.

(c) If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.

(d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

308.6.1 DETECTIVE PERSONNEL

(a) **THE DISTRICT ATTORNEY'S OFFICE** has the following roles in the Officer Involved Critical Incident Protocol:

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1. Participate with the venue agency and/or the Highway Patrol (when applicable) in the investigation of Officer Involved Critical Incidents.
2. Assist and advise investigators on various criminal law issues that may arise, such as **Miranda**, voluntariness, search and seizure, probable cause to arrest, detention and releases, elements of crimes, immunity, and legal defenses.
3. Upon completion of the criminal investigation, analyze the facts of the incident as well as the relevant law to determine if violations of laws occurred, whether there is criminal liability.
4. Deputy District Attorneys will respond to all fatal (non-traffic) incidents.

(b) **THE DISTRICT ATTORNEY** has separate investigative authority. When deemed appropriate by the District Attorney (or his designate), the District Attorney's Office may perform an independent investigation separate and apart from other agencies who are signatories of this protocol.

(c) **INSPECTOR'S DUTIES - Call Out**

1. District Attorney's Inspector will be on call 24-hours every day and can be reached through County Communications.
2. Inspectors will respond to all officer involved shootings and critical incidents.
3. Upon arrival at the incident scene, the Inspector will:
   (a) Communicate with the venue agency official in charge of the scene;
   (b) With the input of the other agency, determine if a Deputy District Attorney is needed at the scene;
   (c) Begin a co-investigation with the Investigator designated by the venue agency. All reports generated will be submitted to the venue agency.

308.6.2 CRIMINAL INVESTIGATION

Inspectors **will not** make statements to the news media concerning the facts of the investigation. This is the responsibility of the venue agency.

308.6.3 REPORTS BY INVOLVED OFFICERS

Inspectors will cooperate fully with venue and employer Internal Affairs Investigators.

308.7 ADMINISTRATIVE INVESTIGATION

308.7.1 POLICY GUIDELINES/RESPONSIBILITIES

PATROL SERGEANT/FIRST NON-INVOLVED OFFICER/CHP RESPONSIBILITIES

The California Highway Patrol (CHP) may assume investigative responsibility for any Officer-Involved Fatal or Potentially Fatal Motor Vehicle Collisions if required by the jurisdiction where the incident occurred. **An Officer-Involved Fatal Collision is any potentially fatal motor vehicle**

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collision involving any on-duty police officer of a San Mateo County law enforcement agency. Normally, involvement is described by the following conditions:

(a) Any fatal or potentially fatal injury to a person who is a passenger of a police officer (such as ride-alongs, emergency transports, prisoners, etc.).

(b) Fatalities or potential fatalities resulting from "enforcement" or "legal" intervention (including ramming, roadblocks, or forcing a vehicle to alter its course by cutting in front of or by contact).

(c) Police pursuits where the suspect being pursued by police vehicle(s) collides with another vehicle, a pedestrian, or object and a fatality or potential fatality results.

(d) A motor vehicle fatality that results after police gunfire has been directed at a suspect or suspect vehicle. The CHP's role should be limited to investigation of physical movement of the vehicle(s) and to collision reconstruction.

CHECK-OFF AREAS

The check off areas are presented in a sequential order that is recommended for officer involved fatal or potentially fatal motor vehicle collisions.

COMPLEX FACTORS/CONTINGENCIES

Complex factors or other contingencies present in the investigation shall continue to be handled in accordance with established investigative principles and procedures.

308.7.2 EVIDENCE

DO NOT alter the position of evidence found at the crime scene until AFTER PHOTOGRAPHS, MEASUREMENTS, FINGERPRINTS and WRITTEN DOCUMENTATION is complete.

308.7.3 RESPONSIBILITIES

(a) Life saving efforts are a first priority. Make certain any injured are treated immediately.

(b) Ensure the collision scene is secure, including traffic control.

(c) If the suspect(s) has fled the scene, broadcast a description and/or direction of travel as soon as possible. Contact the involved officers questions concerning scene management and public safety only.

    1. All involved parties' vehicles accounted for?

(d) Advise communications to preserve tapes.

(e) Identify involved officer(s) and witness officer(s) in the incident. The officers should be relieved of any responsibility in the investigation and removed from the scene. They should be instructed not to talk to anyone other than the designated investigator(s).

(f) Identify witnesses of the incident. The witnesses, whether civilian or officers, should be removed from the scene and isolated from each other.

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(g) Record exact time call received and type of call broadcast.

(h) Record exact time of arrival.

(i) Request additional uniform personnel, as necessary, to secure the scene and manage the incident.

(j) Consider initiating the Incident Command System.

(k) Protect sensitive investigative information

1. Use caution on all radio broadcasts.

2. Use of phones be aware that cellular phone traffic can be intercepted easily.

308.7.4 INJURED PARTIES

Assign an officer to ride in the ambulance with injured parties **with tape recorder** if possible to ensure accurate preservation of statements (give specific instructions what is required to be insured).

(a) Protection of any physical evidence, recovery and securing, (i.e., clothing in a hit/run case).

(b) Maintain custody of any prisoners.

(c) Obtain any spontaneous or unsolicited statements as well as a **dying declaration.**

(d) Obtain any information from medical personnel and be able to provide them with information (i.e., condition of suspect(s), injuries).

(e) Identify anyone having contact with the injured party (ambulance personnel, family of victim **call for help if needed**).

308.7.5 ADDITIONAL SUSPECTS COUNTY BROADCASTS

Radio broadcasts on outstanding suspects, vehicles and witnesses.

(a) Code 666 - County Roadblock requested?

(b) Update information to Communications?

308.7.6 CALL UP PROCEDURES ADDITIONAL SUPPORT

Begin "Call Up" per Department Procedures. Provide call back number where you can be contacted.

(a) Investigation Personnel.

(b) CHP Personnel via Golden Gate Communications Center.

(c) Notify and request District Attorney staff.

(d) Request San Mateo County Crime Lab.

(e) Press Information Officer venue agency of crash site.

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(f) Identify agency liaison to CHP from involved jurisdictions.

308.7.7 IMMEDIATE EVIDENCE CONCERNS AND SCENE MANAGEMENT PRIOR TO ARRIVAL OF CHP

(a) **PROTECT/PRESERVE ALL EVIDENCE.**

(b) **IDENTIFY AND SECURE ALL SCENES:**

1. **DO NOT** turn off emergency lighting equipment of involved vehicles unless necessary.
2. Isolate the immediate crime/collision scene with Crime Scene tape. Make the area large with generous perimeters (area can always be reduced later).
3. If the scene must be altered prior to arrival of CHP, take extensive measurements and photos to show the locations of all involved vehicles, skid marks, debris and any other significant factors.
4. Determine escape or chase routes. Arrange to isolate relevant scenes.

(c) **LIMIT ENTRY:** Limit entry into all scene(s) to absolute minimum only essential persons allowed inside the scene.

(d) **SCENE LOG:** Arrange for a Scene Log to be started to record every entry and exit into any of the scenes documented. All persons entering identified.

(e) **INVOLVED AND WITNESS OFFICERS:**

1. Have involved officers(s) and witness officer(s) taken to the station by independent officer(s). Have all involved officers sequestered with independent/ peer support until CHP Investigators interview.
2. Order all officers not to discuss the incident with each other.

(f) **CIVILIAN WITNESSES:**

1. Locate, identify and sequester all civilian witnesses at the scene.
2. Photograph the crowd and scene, if possible.
3. Start an Area Canvass for additional witnesses, locating relevant vehicles.
4. Give specific directions to canvass officers. Use Area Canvass Form if possible.

(g) Determine what responding officers have learned and what they have done. Ask for updates.

(h) Arrange your thoughts and be prepared to brief CHP Investigators when they arrive.

308.8 ADDITIONAL QUESTIONNAIRES

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Officer-Involved Shootings and Deaths

308.8.1 DETECTIVE QUESTIONNAIRE

Case #:
SAN MATEO COUNTY
Officer Involved CRITICAL Incidents
Detective Personnel Investigation Checklist
NAME OF INVOLVED OFFICER:
DATE OF OCCURRENCE:
LOCATION OF OCCURRENCE:
NAME OF KNOWN SUSPECT(S):
ASSIGNED INVESTIGATORS:
AREA:
The **check-off areas** are presented in a sequential order that is recommended for **officer involved critical incident scene investigation**. Complex factors or other contingencies present in the investigation shall continue to be handled in accordance with established investigative principles and procedures. **DO NOT** alter the position of evidence found at the crime scene until **AFTER** PHOTOGRAPHS, MEASUREMENTS, FINGERPRINTS and WRITTEN DOCUMENTATION is complete.

308.8.2 OFFICER INVOLVED FATAL MOTOR VEHICLE COLLISION QUESTIONNAIRE

Case #:
SAN MATEO COUNTY
Officer Involved FATAL MOTOR VEHICLE COLLISIONS
Patrol Sergeant / First Non-Involved Officer
NAME OF INVOLVED OFFICER:
DATE OF OCCURRENCE:
LOCATION OF OCCURRENCE:
NAME OF KNOWN SUSPECT(S):
ASSIGNED INVESTIGATORS:
AREA:

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Officer-Involved Shootings and Deaths

Under the San Mateo County Fatal incident Protocol, the California Highway Patrol (CHP) shall assume investigative responsibility for any Officer-Involved or Potentially Fatal Motor Vehicle Collisions. **An Officer-Involved Fatal Collision is any potentially fatal motor vehicle collision involving any on-duty police officer of a San Mateo County law enforcement agency**. Normally, involvement is described by the following conditions:

(a) Any fatal or potentially fatal injury to a person who is a passenger of a police officer (such as ride-alongs, emergency transports, prisoners, etc).

(b) Fatalities or potential fatalities resulting from "enforcement" or "legal" intervention (including ramming, roadblocks, or forcing a vehicle to alter its course by cutting in front or by contact).

(c) Police pursuits where the suspect being pursued by police vehicle(s) collides with another vehicle, a pedestrian, or object and a fatality or potential fatality results.

(d) A motor vehicle fatality which results after police gunfire has been directed at a suspect or suspect vehicle. **The CHP's role should be limited to investigation of physical movement of the vehicle(s) and to collision reconstruction.**

The **check-off areas** are presented in a sequential order that is recommended for **officer involved fatal or potentially fatal motor vehicle collisions**. Complex factors or other contingencies present in the investigation shall continue to be handled in accordance with established investigative principles and procedures.

DO NOT alter the position of evidence found at the crime scene until **AFTER** PHOTOGRAPHS, MEASUREMENTS, FINGERPRINTS and WRITTEN DOCUMENTATION is complete.

308.9 SAN MATEO COUNTY PROTOCOL LINKS

308.9.1 OIC COMPLETE
See attachment: OIC Complete.pdf

308.9.2 OIC OFFICER AND SERGEANT
See attachment: OIC Officer Sergeant.pdf

308.9.3 OIC DETECTIVE
See attachment: OIC Detective.pdf

308.9.4 OIC DISTRICT ATTORNEY'S OFFICE
See attachment: OIC DA Office.pdf

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Incident Command Post Protocol - San Mateo County

309.1 TITLE PAGE - PAGE 1

POLICE CHIEFS & SHERIFF ASSOCIATION
SAN MATEO COUNTY

INCIDENT COMMAND POST PROTOCOL

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Incident Command Post Protocol - San Mateo County

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SAN MATEO COUNTY

INCIDENT COMMAND POST PROTOCOL
for SAN MATEO COUNTY LAW ENFORCEMENT AGENCIES

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PROTOCOL GUIDELINES

These guidelines have been prepared to assist and provide direction in establishing field command posts in an orderly and thorough fashion.

It is designed in checklist form in order to provide a framework for ease of use and consistency in application. Space has been provided for notes; while the preference is to record information in another format, such as by using appropriate Incident Command System (ICS) forms.

This document was prepared with the assistance of experienced supervisors and managers from virtually all law enforcement agencies throughout San Mateo County and every effort has been made to insure that the procedures set forth represent competent and contemporary industry standards. Because the circumstances of each case are varied and unique, it is not possible to develop guidelines that will govern every situation. This protocol is no substitute for common sense, professional evaluation and experience. The exercise of sound judgment and professional experience may require deviation from this protocol depending on the facts of the case.

INCIDENT COMMAND STRATEGIC PRIORITIES:

Life Safety

Incident Stability

Property Conservation

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Incident Assessment

- ☐ The primary unit assigned to the call will serve as the agency head designee and initial Incident Commander (IC), assess the operational situation immediately upon arrival and proceed according to applicable policies and procedures.
- ☐ The initial responsibility for management of assigned resources rests with the initial IC assigned to the call. The initial IC will be responsible for the following duties:
  - (1) Assess the situation
  - (2) Establish the command organization based on the needs of the incident and the assets available
  - (3) Establish immediate priorities
  - (4) Ensure adequate safety measures are in place
  - (5) Coordinate with key people and officials
  - (6) Authorize release of information to the media
- ☐ The initial IC will maintain command and control of the incident or event until relieved by a higher authority, or more qualified individual, if necessary.
- ☐ The IC will exercise command and control over all resources committed to an incident or event that is citywide or multijurisdictional in nature.
- ☐ Determining which incidents warrant the formal documentation of the Incident Command System (ICS) is a matter of good judgment, although the use of ICS is encouraged on small or everyday recurring events to gain experience. Factors to consider for implementation of a formal ICS structure include the following.
  - (1) *Size:* How large a geographical area is or will be affected?

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Incident Assessment (continued)

(2) *Scope:* How many resources are likely to be involved? What will be necessary to achieve stabilization and/or containment?

(3) *Duration:* How long can one reasonably expect the event or incident to last with or without ICS intervention?

(4) *Multi-Agency Involvement:* Will other police agencies and emergency responding departments, such as the fire department, be involved?

(5) *Resources Needed:* Will specialized teams be deployed, such as SWAT or search and rescue?

☐ Determine if Unified Command (UC) is appropriate. Unified Command is an application of ICS used when there is more than one agency with incident jurisdiction, or when incidents cross political jurisdictions. Agencies work together through designated members of the UC, often the senior person(s) from agencies and/or disciplines participating in the UC, to establish a common set of objectives and strategies, appoint a single operations section chief, and approve a single Incident Action Plan (IAP). The IC responsibility is shared within the UC, with the function most important at the time taking the lead role. The lead responsibility may shift as the incident progresses. For example, at a crash involving hazardous materials, the fire department would assume the lead role until the HAZMAT concerns are mitigated. Then, as the incident progresses to the crash investigation phase, the lead role would shift to law enforcement.

ICS Activation

☐ The on-duty supervisor or highest-ranking officer assigned to the call will determine whether the incident warrants a formal ICS response documentation.

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ICS Activation (continued)

☐ The primary unit assigned to the incident will serve as the initial IC and, prior to being relieved, will have the latitude and authority to assign any person to any assignment or task, regardless of rank.

☐ The overarching strategic priorities for any incident, in order of importance are:

First, life safety of responders, those involved in the incident and the general public.

Second, stabilization of the incident, itself.

Third, conservation and protection of property.

☐ The institution of Incident Command begins a cyclical planning process is designed to take the overall incident objectives and break them down into tactical assignments for each operational period. It is important that this initial overall approach to establishing incident objectives establish the course of the incident, rather than having incident objectives only address a single operational period.

Establishing Command

NOTE: Authority for management of the scene of a medical emergency is vested in the law enforcement agency having primary investigative authority. 1798.6.(c) Health & Safety Code

☐ As soon as practical following an actual ICS activation, the responsibility of IC will be assumed by a supervisor or manager from the agency with primary jurisdiction for the incident, if necessary. Most often, this will be an on-duty patrol supervisor. However, depending upon the nature of the incident, command may be first assumed by a higher ranking or more qualified member.

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Establishing Command (continued)

☐ The Incident Commander should identify ***What*** are the desired outcomes as a result of managing the incident; ***Who*** are the personnel, agencies and equipment required to handle the incident and ***How*** the objectives will be met through action processes.

☐ Various components of ICS should be activated depending on the size and complexity of the incident or event. Operational need is the primary factor in determining which components or functions are activated. In addition to establishing a command post and function, the IC, utilizing the standardized ICS structure, will activate those components necessary for the particular incident. Those components include the following:

(1) Incident Command Staff (Safety Officer, Public Information Officer, Liaison(s))

(2) Incident General Staff Sections (operations, planning, logistics, finance/administration, and intelligence, if necessary)

(2) Branches (subdivisions within the operations section formed to manage the broad span of control issues)

(3) Divisions (geographical subdivisions)

(4) Groups (functional subdivisions)

☐ The IC will specify the components to be activated and designate an officer in charge of each component. If a section is not activated for the incident, the IC will be responsible for performing that function.

☐ Sworn personnel and select support staff will be activated and assigned by the IC, or his or her designee, as warranted, to the following role responsibilities:

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Establishing Command (continued)

☐ *INCIDENT COMMANDER* – The Incident Commander's responsibility is the overall management of the incident. On most incidents, a single incident commander carries out the command activity. However, Unified Command may be appropriate. The Incident Commander may have a Deputy, who may be from the same agency, or from an assisting agency. Deputies may also be used at section and branch levels of the ICS organization.

☐ *SAFETY OFFICER* – The Safety Officer's function is to develop and recommend measures for assuring personnel safety, and to assess and/or anticipate hazardous and unsafe situations. Having full authority of the Incident Commander, the safety officer can exercise emergency authority to stop or prevent unsafe acts. Only one safety officer will be assigned for each incident. The safety officer may have Assistant Safety Officers as necessary, and the Assistant Safety Officers may also come from assisting agencies or jurisdictions as appropriate. Assistant Safety Officers may have specific responsibilities such as air operations, urban search and rescue, hazardous materials, or for specific geographic or functional areas of the incident.

☐ *PUBLIC INFORMATION OFFICER* – This individual will prepare and dispense all public information regarding the incident, with the approval of the IC. This individual is usually assigned from the agency having primary control of the incident. All agency PIOs enter their input for the public information release, help edit it, and agree to its contents. It is then approved by the IC or UC before being released to the public. A media staging area shall be designated to ensure that media access will not interfere with law enforcement operations. The location of the media staging area should be communicated to media outlets to help ensure their cooperation. The IC will approve all media releases prior to the PIO giving them to the media.

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Establishing Command (continued)

☐ *LIAISON OFFICER* – Incidents that are multi-jurisdictional, or have several agencies involved, may require the establishment of the liaison officer position on the Command Staff of the ICS structure. Generally, only one Liaison Officer will be assigned for each incident, including incidents operating under Unified Command and multi-jurisdiction incidents. The Liaison Officer may have assistants as necessary, and the assistants may represent assisting agencies or jurisdictions. The Liaison Officer is the point of contact for the Agency Representatives assigned to the incident by assisting or cooperating agencies.

☐ *AGENCY REPRESENTATIVES* – In many multi-jurisdiction incidents, an agency or jurisdiction will send a representative to assist in coordination efforts. An Agency Representative is an individual assigned to an incident from an assisting or cooperating agency who has been delegated authority to make decisions on matters affecting that agency's participation at the incident. Agency Representatives report to the Liaison Officer or to the Incident Commander in the absence of a Liaison Officer.

☐ *OPERATIONS SECTION CHIEF* – The Operation Section Chief, a member of the General Staff, is responsible for the management of all operations directly applicable to the primary mission ensuring the overall safety and welfare of all Section personnel. The Operation Section Chief activates and supervises organization elements in accordance with the Incident Action Plan and directs its execution. The Operation Section Chief also directs the preparation of unit operational plans, requests or releases resources, makes expedient changes to the Incident Action Plan as necessary, and reports such to the Incident Commander. The Deputy Operations Section Chief may be assigned for specific tasks, i.e., planning operations, day/night operations, evacuation or contingency planning, etc.

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Establishing Command (continued)

- ☐ *DIVISION OR GROUP SUPERVISOR* – Supervisors of Divisions or Groups report to the Operations Section Chief (or Operations Branch Director when activated). The Supervisor is responsible for the implementation of the assigned portion of the Incident Action Plan. They are also responsible for the assignment of resources within the Division or Group, reporting on the progress of control operations, and the status of resources within the Division or Group. Division Supervisors are assigned to a specific geographical area of an incident. Group Supervisors are assigned to accomplish specific functions within the incident (i.e. Hazardous Material, Medical, or Tactical).
- ☐ As needed, additional agency personnel, or assistance from other localities, will be requested by the IC in accordance with the emergency operations plans, mutual aid agreements, or mutual aid as permitted by state law, to any of the following positions:
- ☐ *FINANCE SECTION CHIEF* – The FSC ensures that personnel time, expenditures, and procurements are tracked and used in an efficient manner.
- ☐ *LOGISTICS SECTION CHIEF* – The LSC is responsible for ensuring that the activities for the incident or event can be sustained. This includes obtaining, securing, and maintaining the facilities needed to sustain the operation, including a base, camp, or staging area.
- ☐ *PLANNING SECTION CHIEF* – The PSC is the individual responsible for monitoring the current operation and determining the needs for personnel and activities for the oncoming shift. The PSC develops, writes, and disperses the IAP after it is approved by the IC.
- ☐ All Section Chiefs will report directly to the IC.
- ☐ All requests for additional staffing or specialized units will be authorized by the IC.

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Establishing Command (continued)

- ☐ The IC will establish an Incident Command Post (ICP) and determine an incident designator to be used by all responders. This designator will be one or two geographical words, such the street name or specific place name of the incident. Examples include "Elm Street Command," or "Oracle Command." The designator chosen shall clearly distinguish the event and not be easily confused with other locations.
- ☐ The IC will determine the ICP location. This location should be carefully chosen based on such factors as incident size, need for security, proximity to the incident, and support issues such as communications, shelter from the elements, and related considerations. The ICP can be moved at a later time if necessary.
- ☐ The IC will inform communications of the establishment of command and the ICP's specific location. For example, the "ICP location will be in the service yard at the west end of the San Mateo Bridge."

Personnel Accountability

- ☐ The IC, or designee, will maintain strict personnel accountability and will be continually updated by the section chiefs in order to keep an ongoing, accurate assessment of the entire operation.
- ☐ If the IC establishes command after units are already actively deployed, the IC will conduct (or have conducted) a radio roll call to determine their positions. In an incident actively managed by ICS, radio communications dispatchers will maintain a record of, and keep the IC apprised of, the location of all deployed units.
- ☐ During major incidents, the IC may appoint a safety officer who will have the responsibility and authority to stop an operation or part of it if safety requirements are not being met.

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Personnel Accountability (continued)

☐ Depending on the size and duration of the incident, consideration will be given to relief provisions for operations personnel.

Transfer or Assumption of Command

☐ Incident command can be transferred to an officer of higher rank, to a more qualified member, an individual with particular expertise, or to a larger Incident Management Team (IMT) in order to help maintain a manageable span of control. Transfer of command may also be necessary in order to relieve a member who has been in command for an extended period of time. Prior to the transfer of command, the following actions are required.

(1) Assess the current situation with the current IC;

(2) Receive a briefing from the current IC and document the transfer. At minimum, the incoming commander should be apprised of the current situation, assignment of resources, and tactical and strategic needs;

(3) Determine an appropriate time for the transfer of command;

(4) Notify others of the change in incident command;

(5) Assign the current IC to another position in the incident organization (such as Operation Section Chief).

☐ There will be a transfer of command briefing wherein all sections are briefed and all involved personnel are advised of the new command.

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Planning Cycle

- ☐ A cyclical planning process is one designed to take the overall incident objectives and break them down into tactical assignments for each operational period. It is important that this initial overall approach to establishing incident objectives establish the course of the incident, rather than having incident objectives only address a single operational period.
- ☐ The Incident Commander develops the initial Incident Action Plan (IAP).
- ☐ The Incident Commander and Operations Section Chief revising the initial IAP for extended operations.
- ☐ During the initial stages of incident management, planners must develop a simple plan that can be communicated through concise verbal briefings. Frequently, this plan must be developed very quickly and with incomplete situation information. As the incident management effort evolves over time, additional lead time, staff, information systems, and technologies enable more detailed planning and cataloging of events and "lessons learned."
- ☐ IC/UC Objectives Meeting: The Incident Command/Unified Command establishes incident objectives that cover the entire course of the incident. For complex incidents, it may take more than one operational period to accomplish the incident objectives.
- ☐ Command and General Staff Meeting: The Incident Command/Unified Command meet with the Command and General Staff for the incident to gather input or to provide immediate direction that cannot wait until the planning process is completed. This meeting occurs as needed and should be as brief as possible.
- ☐ Tactics Meeting: The purpose of the Tactics Meeting is to review the tactics developed by the Operations Section Chief. This includes the following:

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Planning Cycle (continued)

(1) Determine how the selected strategy will be accomplished in order to achieve the incident objectives.

(2) Assign resources to implement the tactics.

(3) Identify methods for monitoring tactics and resources to determine if adjustments are required (e.g., different tactics, different resources, or new strategy).

☐ The Operations Section Chief, Safety Officer and Logistics Section Chief, at a minimum attend the Tactics Meeting. The Operations Section Chief leads the Tactics Meeting.

☐ ICS forms 215, Operational Planning Worksheet, and 215A, Incident Safety Analysis, are used to document the Tactics Meeting.

☐ Resource assignments will be made for each of the specific work tasks. Resource assignments will consist of the kind, type, and numbers of resources available and needed to achieve the tactical operations desired for the operational period. If the required tactical resources will not be available, then an adjustment should be made to the tactical assignments being planned for the Operational Period. It is very important that tactical resource availability and other needed support be determined prior to spending a great deal of time working on strategies and tactical operations that realistically cannot be achieved.

☐ Planning Meeting: Following the Tactics Meeting, preparations are made for the Planning Meeting, to include the following actions coordinated by the Planning Section:

(1) Review the ICS Form 215 developed in the Tactics Meeting.

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Planning Cycle (continued)

(2) Review the ICS Form 215A, Incident Safety Analysis (prepared by the Safety Officer), based on the information in the ICS Form 215.

(3) Assess current operations effectiveness and resource efficiency.

(4) Gather information to support incident management decisions.

☐ The Planning Meeting provides the opportunity for the incident Command and General Staff to review and validate the operational plan as proposed by the Operations Section Chief. Attendance is required for all Command and General Staff. Additional incident personnel may attend at the request of the Planning Section Chief or the Incident Commander. The Planning Section Chief conducts the Planning Meeting following a fixed agenda.

☐ The Operations Section Chief delineates the amount and type of resources needed to accomplish the plan. The Planning Section's "Resources Unit" will have to work with the Logistics Section to accommodate.

☐ At the conclusion of the Planning Meeting, the Planning Section Staff will indicate when all elements of the plan and support documents are required to be submitted so the plan can be collated, duplicated, and made ready for the Operational Period Briefing.

☐ IAP Preparation and Approval: The written plan is prepared; it is comprised of a series of standard ICS forms and supporting documents that convey the Incident Commander's intent and the Operations Section direction for the accomplishment of the plan for that Operational Period.

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Planning Cycle (continued)

☐ For simple incidents of short duration, the Incident Action Plan (IAP) will be developed by the Incident Commander and communicated to subordinates in a verbal briefing. The planning associated with this level of complexity does not demand the formal planning meeting process described elsewhere in this protocol.

☐ When conditions result in the need for the Incident Commander to engage a more formal process, a written IAP should be considered whenever:

(1) Two or more jurisdictions are involved in the response.

(2) The incident continues into the next Operational Period.

(3) A number of ICS organizational elements are activated (typically, when General Staff Sections are staffed).

(4) It is required by agency policy.

(5) A Hazmat incident is involved.

☐ Operational Period Briefing: This briefing is conducted at the beginning of each Operational Period and presents the Incident Action Plan (IAP) to supervisors of tactical resources. Following the Operations Period Briefing, supervisors meet with their assigned resources for a detailed briefing on their respective assignments.

☐ Execute Plan: The Operations Section directs the implementation of the IAP. The supervisory personnel within the Operations Section are responsible for implementation of the IAP for the specific Operational Period.

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Planning Cycle (continued)

☐ Assess Progress: The IAP is evaluated at various stages in its development and implementation. The Operations Section Chief may make the appropriate adjustments during the Operational Period to ensure that the objectives are met and effectiveness is assured.

Demobilization

☐ Once activated or pressed into service, the planning section shall develop a demobilization plan for large incidents or events.

☐ When the incident has been resolved or stabilized to such a point that command is no longer necessary, the IC will notify communications that the incident is being terminated and the demobilization plan pursued.

☐ The radio communications unit assigned to the incident will rebroadcast the demobilization message, and personnel will return to their normal supervisory chain of command unless otherwise advised as required by the demobilization plan.

After Action Report

☐ The IC will submit an after action report which should include, but may not be limited to, the following:

(1) A brief description and outcome of the incident;

(2) A statement of personnel and equipment utilized;

(3) Cost analysis approximations to include salaries, equipment, food and incidentals;

(4) A copy of incident/event logs and all submitted reports;

(5) Any maps, forms, or related documentation;

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After Action Report (continued)

(6) A summary of deaths and injuries to members and citizens and an assessment of damage to private and public property;

(7) Any information relating to the status of criminal investigations and subsequent prosecutions;

(8) A final evaluation and any subsequent conclusions relating to the agency's overall response to the critical incident or event, to include the following:

(a) Any problems encountered regarding personnel, equipment, resources or multiagency response;

(b) Suggestions to revise policy or improve training and equipment; and

(c) Any other consideration that would improve the agency's response to critical incidents or events in the future.

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Task & Responsibility Quick Reference Chart

TYPICAL TASKS	PRIMARY RESPONSIBILITY
1. Briefing on situation and resource status	PSC
2. Set/review incident objectives	IC
3. Plot perimeters, establish Branch and Division boundaries, identify Group assignments	OSC
4. Specify tactics for each Division/Group	OSC
5. Specify safety mitigation measures for identified hazards in Divisions/Groups	SOF
6. Specify resources needed by Division/Group	OSC, PSC
7. Specify Operations facilities and reporting locations – Plot on map	OSC, PSC, LSC
8. Develop resource and personnel orders	LSC
9. Consider Communications, Medical, and Traffic Plan requirements	PSC, LSC
10. Finalize, approve and implement Incident Action Plan	PSC, IC, OSC

LEGEND

IC = Incident Commander
PSC = Planning Section Chief
OSC = Operations Section Chief
LSC = Logistics Section Chief
SOF = Safety Officer

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Incident Types

Type 5	• The incident can be handled with one or two single resources with up to six personnel. • Command and General Staff positions (other than the Incident Commander) are not activated. • No written Incident Action Plan (IAP) is required. • The incident is contained within the first operational period and often within an hour to a few hours after resources arrive on scene. • Examples include a vehicle fire, an injured person, or a police traffic stop.
Type 4	• Command staff and general staff functions are activated only if needed. • Several resources are required to mitigate the incident. • The incident is usually limited to one operational period in the control phase. • The agency administrator may have briefings, and ensure the complexity analysis and delegation of authority are updated. • No written Incident Action Plan (IAP) is required but a documented operational briefing will be completed for all incoming resources. • The role of the agency administrator includes operational plans including objectives and priorities.
Type 3	• When capabilities exceed initial attack, the appropriate ICS positions should be added to match the complexity of the incident. • Some or all of the Command and General Staff positions may be activated, as well as Division/Group Supervisor and/or Unit Leader level positions. • A Type 3 Incident Management Team (IMT) or incident command organization manages initial action incidents with a significant number of resources, an extended attack incident until containment/control is achieved, or an expanding incident until transition to a Type 1 or 2 team. • The incident may extend into multiple operational periods. • A written IAP may be required for each operational period.
Type 2	• This type of incident extends beyond the capabilities for local control and is expected to go into multiple operational periods. A Type 2 incident may require the response of resources out of area, including regional and/or national resources, to effectively manage the operations, command, and general staffing. • Most or all of the Command and General Staff positions are filled. • A written IAP is required for each operational period. • Many of the functional units are needed and staffed. • Operations personnel normally do not exceed 200 per operational period and total incident personnel do not exceed 500 (guidelines only). • The agency administrator is responsible for the incident complexity analysis, agency administrator briefings, and the written delegation of authority.
Type 1	• This type of incident is the most complex, requiring national resources to safely and effectively manage and operate. • All Command and General Staff positions are activated. • Operations personnel often exceed 500 per operational period and total personnel will usually exceed 1,000. • Branches need to be established. • The agency administrator will have briefings, and ensure that the complexity analysis and delegation of authority are updated. • Use of resource advisors at the incident base is recommended. • There is a high impact on the local jurisdiction, requiring additional staff for office administrative and support functions.

Source: http://training.fema.gov/EMIWeb/IS/ICSResource/assets/IncidentTypes.pdf

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Incident Commander Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Ensure welfare and safety of incident personnel
	2. Supervise Command and General Staff
	3. Obtain initial briefing from current Incident Commander and agency administrator.
	4. Assess incident situation • Review the current situation status and initial incident objectives. Ensure that all local, State and Federal agencies impacted by the incident have been notified.
	5. Determine need for, establish and participate in Unified Command
	6. Authorize protective action statements, as necessary.
	7. Activate appropriate Command and General Staff positions. Safety Officer must be appointed on hazardous materials incidents: • Confirm dispatch and arrival times of activated resources. • Confirm work assignments.
	8. Brief staff: • Identify incident objectives and any policy directives for the management of the incident. • Provide a summary of current organization. • Provide a review of current incident activities. • Determine the time and location of first Planning Meeting.
	9. Determine information needs and inform staff of requirements.
	10. Determine status of disaster declaration and delegation of authority.
	11. Establish parameters for resource requests and releases: • Review requests for critical resources. • Confirm who has ordering authority within the organization. • Confirm those orders that require Command authorization.
	12. Authorize release of information to the media: • If operating within a Unified Command, ensure all Incident Commanders approve release.
	13. Establish level of planning to be accomplished: • Written Incident Action Plan (IAP). • Contingency planning. • Formal Planning Meeting.

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Incident Commander Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	14. Ensure Planning Meetings are conducted as indicated:

Sample Planning Meeting Agenda

Agenda Item	Responsible Party
1. Briefing on situation/resource status	Planning/Operations Section Chiefs
2. Discuss safety issues.	Safety Officer
3. Set/confirm incident objectives.	Incident Commander
4. Plot control lines & Division boundaries.	Operations Section Chief
5. Specify tactics for each Division/Group.	Operations Section Chief
6. Specify resources needed for each Division/Group.	Operations/Planning Section Chiefs
7. Specify facilities and reporting locations.	Operations/Planning/Logistics Section Chiefs
8. Develop resource order.	Logistics Section Chief
9. Consider communications, medical and transportation plans.	Logistics/Planning Section Chiefs
10. Provide financial update	Finance/Administration Section Chief
11. Discuss interagency liaison issues	Liaison Officer
12. Discuss information issues	Public Information Officer
13. Finalize, approve and implement plan.	Incident Commander/All

	15. Approve and authorize implementation of the IAP: • Review IAP for completeness and accuracy. • Verify that objectives are incorporated and prioritized. • Sign ICS Form 202.
	16. Ensure Command and General Staff coordination: • Periodically check progress on assigned tasks of Command and General Staff personnel. • Approve necessary changes to strategic goals and IAP. • Ensure that Liaison Officer is making periodic contact with participating agencies.
	17. Work with agency staff to declare state of emergency according to agency protocol.
	18. Keep agency administrator informed on incident-related problems and progress.

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Safety Officer Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Obtain briefing from Incident Commander and/or from initial on-scene Safety Officer.
	2. Identify hazardous situations associated with the incident. Ensure adequate levels of Protective equipment are available and being used.
	3. Staff and organize function as appropriate: • In multi-discipline incidents, consider the use of an Assistant Safety Officer from each discipline. • Multiple high-risk operations may require an Assistant Safety Officer at each site. • Request additional staff through incident chain of command.
	4. Identify potentially unsafe acts.
	5. Identify corrective actions and ensure implementation. Coordinate corrective action with Command and Operations.
	6. Ensure adequate sanitation and safety in food preparation.
	7. Debrief Assistant Safety Officers prior to Planning Meetings.
	8. Prepare Incident Action Plan Safety and Risk Analysis (USDA ICS Form 215A).
	9. Participate in Planning and Tactics Meetings: • Listen to tactical options being considered. If potentially unsafe, assist in identifying options, protective actions, or alternative tactics. • Discuss accidents/injuries to date. Make recommendations on preventative or corrective actions.
	10. Attend Planning meetings:

Sample Planning Meeting Agenda

Agenda Item	Responsible Party
1. Briefing on situation/resource status	Planning/Operations Section Chiefs
2. Discuss safety issues.	Safety Officer
3. Set/confirm incident objectives.	Incident Commander
4. Plot control lines & Division boundaries.	Operations Section Chief
5. Specify tactics for each Division/Group.	Operations Section Chief
6. Specify resources needed for each Division/Group.	Operations/Planning Section Chiefs
7. Specify facilities and reporting locations.	Operations/Planning/Logistics Section Chiefs
8. Develop resource order.	Logistics Section Chief
9. Consider communications, medical and transportation plans.	Logistics/Planning Section Chiefs
10. Provide financial update	Finance/Administration Section Chief
11. Discuss interagency liaison issues	Liaison Officer
12. Discuss information issues	Public Information Officer
13. Finalize, approve and implement plan.	Incident Commander/All

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Safety Officer Position Checklist (continued)

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	11. Participate in the development of the Incident Action Plan (IAP): • Review and approve Medical Plan (ICS Form 206). • Provide Safety Message (ICS Form 202) and/or approved document. • Assist in the development of the "Special Instructions" block of ICS Form 204, as requested by the Planning Section.
	12. Investigate accidents that have occurred within incident areas: • Ensure accident scene is preserved for investigation. • Ensure accident is properly documented. • Coordinate with Incident Compensation and Claims Unit Leader, agency Risk Manager, and Occupational Safety and Health Administration (OSHA). • Prepare accident report as per agency policy, procedures and direction. • Recommend corrective actions to Incident Commander and agency.
	13. Coordinate critical incident stress, hazardous materials, and other debriefings, as necessary.
	14. Document all activity on Unit Log (ICS Form 214).

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Public Information Officer Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Obtain briefing from Incident Commander: • Determine current status of Incident (ICS Form 209 or equivalent). • Identify current organization (ICS Forms 201 and 203, resource lists, etc.). • Determine point of contact for media (scene or Command Post). • Determine current media presence.
	2. Participate in Administrative Officer's briefing: • Determine constraints on information process. • Determine pre-existing agreements for information centers, Joint Information Centers (JICs), etc.
	3. Assess need for special alert and warning efforts, including the hearing impaired, non-English speaking populations, and industries especially at risk for a specific hazard, or which may need advance notice in order to shut down processes.
	4. Coordinate the development of door-to-door protective action statements with Operations.
	5. Prepare initial information summary as soon as possible after activation. If no other information is available, consider the use of the following general statement: **Sample Initial Information Summary** We are aware that an *[accident/incident]* involving *[type of incident]* occurred at approximately *[time]*, in the vicinity of *[general location]*. *[Agency personnel]* are responding, and we will have additional information available as we are able to confirm it. We will hold a briefing at *[location]*, and will notify he press at least ½ hour prior to the briefing. At this time, this briefing is the only place where officials authorized to speak about the incident and confirmed information will be available. Thank you for your assistance.
	6. Arrange for necessary work space, materials, telephones and staff. Consider assigning Assistant Public Information Officers to: • Joint Information Center (JIC). • Field (scene) Information. • Internal Information.
	7. Establish contact with local and national media representatives, as appropriate.
	8. Establish location of Information Center for media and public away from Command Post.
	9. Establish schedule for news briefings.
	10. Coordinate, with Logistics, the activation and staffing of message center "rumor control" lines to receive requests and answer questions from the public. Provide statement to operators

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Public Information Officer Position Checklist (continued)

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	11. Obtain current incident status reports from Planning Section; coordinate a schedule for updates.
	12. Observe constraints on the release of information imposed by the Incident Commander and according to agency guidance.
	13. Obtain approval for information release from Incident Commander: • Confirm details to ensure no conflicting information is released. • Identify site and time for press briefings, and confirm participation by other Incident Management Team (IMT) members.
	14. Release news to media, and post information in Command Post and other appropriate locations.
	15. Release all interviews and copy all news releases: • Contact media to correct erroneous or misleading information being provided to the public via the media.
	16. Update off-incident agency personnel on a regular basis: • Utilize electronic mail for agency updates. • Establish phone list in the Command Post dedicated to internal communications to update agency personnel. • Provide standard statement which can be given to general requests for information.
	17. Coordinate information releases with information staff from other impacted agencies and jurisdictions: • Ensure that information provided to the public is consistent across jurisdictional boundaries, when appropriate.
	18. Attend Planning Meetings:

Sample Planning Meeting Agenda

Agenda Item	Responsible Party
14. Briefing on situation/resource status	Planning/Operations Section Chiefs
15. Discuss safety issues.	Safety Officer
16. Set/confirm incident objectives.	Incident Commander
17. Plot control lines & Division boundaries.	Operations Section Chief
18. Specify tactics for each Division/Group.	Operations Section Chief
19. Specify resources needed for each Division/Group.	Operations/Planning Section Chiefs
20. Specify facilities and reporting locations.	Operations/Planning/Logistics Section Chiefs
21. Develop resource order.	Logistics Section Chief
22. Consider communications, medical and transportation plans.	Logistics/Planning Section Chiefs
23. Provide financial update	Finance/Administration Section Chief
24. Discuss interagency liaison issues	Liaison Officer
25. Discuss information issues	Public Information Officer
26. Finalize, approve and implement plan.	Incident Commander/All

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Public Information Officer Position Checklist (continued)

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	19. Respond to special requests for information.
	20. Provide all news releases, bulletins and summaries to Documentation Unit to be included in the final incident package.
	21. Confirm the process for the release of information concerning incident-related injuries or deaths.
	22. Document all activity on Unit Log (ICS Form 214)

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Incident Command Post Protocol - San Mateo County

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Liaison Officer Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Obtain briefing from Incident Commander: • Obtain summary of incident organization (ICS Forms 201 and 203). • Determine companies, agencies, non-government organizations already involved in the incident, and whether they are assisting (have tactical equipment and/or personnel assigned to the organization), or are cooperating (operating in a support mode "outside" the organization).
	2. Obtain cooperating and assisting agency information, including: • Contact person(s). • Radio frequencies. • Phone numbers. • Cooperative agreements. • Resource type. • Number of personnel. • Condition of personnel and equipment. • Agency constraints/limitations.
	3. Establish workspace for Liaison function and notify agency representatives of location.
	4. Contact and brief assisting/cooperating agency representatives and mutual aid cooperators.
	5. Interview agency representatives concerning resources and capabilities, and restrictions on use-provide this information at planning meetings.
	6. Work with Public Information Officer and Incident Commander to coordinate media releases associated with inter-governmental cooperation issues.
	7. Monitor incident operations to identify potential inter-organizational problems. Keep Command apprised of such issues: • Bring complaints pertaining to logistical problems, inadequate communications, and strategic and tactical direction to the attention of the Incident Management Team (IMT).

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Liaison Officer Position Checklist (continued)

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	8. Attend Planning meetings:

Sample Planning Meeting Agenda

Agenda Item	Responsible Party
1. Briefing on situation/resource status	Planning/Operations Section Chiefs
2. Discuss safety issues.	Safety Officer
3. Set/confirm incident objectives.	Incident Commander
4. Plot control lines & Division boundaries.	Operations Section Chief
5. Specify tactics for each Division/Group.	Operations Section Chief
6. Specify resources needed for each Division/Group.	Operations/Planning Section Chiefs
7. Specify facilities and reporting locations.	Operations/Planning/Logistics Section Chiefs
8. Develop resource order.	Logistics Section Chief
9. Consider communications, medical and transportation plans.	Logistics/Planning Section Chiefs
10. Provide financial update	Finance/Administration Section Chief
11. Discuss interagency liaison issues	Liaison Officer
12. Discuss information issues	Public Information Officer
13. Finalize, approve and implement plan.	Incident Commander/All

	9. Document all activity on Unit Log (ICS Form 214).

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Operations Section Chief Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Obtain briefing from Incident Commander: • Determine incident objectives and recommended strategies. • Determine status of current tactical assignments. • Identify current organization, location of resources, and assignments. • Confirm resource ordering process. • Determine location of current Staging Areas and resources assigned there.
	2. Organize Operations Section to ensure operational efficiency, personnel safety and adequate span of control.
	3. Establish operational period.
	4. Establish and demobilize Staging Areas.
	5. Attend Operations Briefing and assign Operations personnel in accordance with Incident Action Plan (IAP): • Brief Staging Area Manager on types and numbers of resources to be maintained in Staging. • Brief tactical elements (Branches, Divisions/Groups, Task Force/Strike-Team Leaders) on assignments, ordering process, protective equipment, and tactical assignments.
	6. Develop and manage tactical operations to meet incident objectives.
	7. Assess life safety: • Adjust perimeters, as necessary, to ensure scene security. • Evaluate and enforce use of appropriate protective clothing and equipment. • Implement and enforce appropriate safety precautions.
	8. Evaluate situation and provide update to Planning Section: • Location, status, and assignment of resources. • Effectiveness of tactics. • Desired contingency plans.
	9. Determine need and request additional resources.
	10. Notify Resources Unit of Section Branches, Divisions/Groups, Strike Teams/Task Forces, and single resources which are staffed, including location of resources and names of leaders.
	11. Keep Resources Unit up to date on changes in resource status.
	12. Write formal Operations portion of IAP with the Planning Section Chief, if so directed by the Incident Commander: • Identify assignments by Division or Group. • Identify specific tactical assignments. • Identify resources needed to accomplish assignments.

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Operations Section Chief Position Checklist (continued)

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
☐	13. Ensure coordination of the Operations Section with other Command and General Staff: • Ensure Operations Section time-keeping, activity logs, and equipment use documents are maintained and passed to Planning, Logistics, and Finance/Administration Sections, as appropriate. • Ensure resource ordering and logistical support needs are passed to Logistics in a timely fashion-enforce ordering process. • Notify Logistics of communications problems. • Keep Planning up-to-date on resource and situation status. • Notify Liaison Officer of issues concerning cooperating and assisting agency resources. • Keep Safety Officer involved in tactical decision-making. • Keep Incident Commander apprised of status of operational efforts. • Coordinate media field visits with the Public Information Officer.
☐	14. Attend the Tactics Meeting with Planning Section Chief, Safety Officer, and Incident Commander prior to the Planning Meeting to review strategy, discuss tactics, and outline organization assignments.
☐	15. Attend Planning Meetings:

Sample Planning Meeting Agenda

Agenda Item	Responsible Party
1. Briefing on situation/resource status	Planning/Operations Section Chiefs
2. Discuss safety issues.	Safety Officer
3. Set/confirm incident objectives.	Incident Commander
4. Plot control lines & Division boundaries.	Operations Section Chief
5. Specify tactics for each Division/Group.	Operations Section Chief
6. Specify resources needed for each Division/Group.	Operations/Planning Section Chiefs
7. Specify facilities and reporting locations.	Operations/Planning/Logistics Section Chiefs
8. Develop resource order.	Logistics Section Chief
9. Consider communications, medical and transportation plans.	Logistics/Planning Section Chiefs
10. Provide financial update	Finance/Administration Section Chief
11. Discuss interagency liaison issues	Liaison Officer
12. Discuss information issues	Public Information Officer
13. Finalize, approve and implement plan.	Incident Commander/All

☐	16. Hold Section meetings, as necessary, to ensure communication and coordination among Operations Branches, Divisions, and Groups.

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Division/Group Supervisor Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Obtain briefing from Branch Director, Operations Section Chief or Incident Commander: • Determine resources assigned to the Division or Group. • Confirm geographic boundaries or functional responsibilities of Division or Group. • Confirm location and function of additional Divisions and Groups operating adjacent to or within your geographic location. • Confirm tactical assignment. • Confirm communication assignment.
	2. Attend Operations Briefing.
	3. Review assignments and incident activities with subordinates, and assign tasks.
	4. Ensure subordinates observe required safety precautions.
	5. Implement Incident Action Plan (IAP) for Division or Group.
	6. Submit situation and resource status information to Branch Director or Operations Section Chief: • Maintain "hot zone" resource tracking system, if necessary.
	7. Coordinate activities with adjacent Divisions/Groups.
	8. Determine need for additional resources and make request through Branch Director or Operations Section Chief.
	9. Report special occurrences or events, such as accidents or sickness, to Branch Director or Operations Section Chief.
	10. Resolve logistical problems within the Division and/or Group: • Monitor communications and assess communications needs. • Ensure adequate food, liquids, and rehabilitation. • Ensure personnel are aware of process for medical assistance.
	11. Debrief with Branch Director or Operations Section Chief prior to leaving shift: • Include work accomplished or left to be accomplished, operational difficulties, resource needs, etc. • Participate in the development of plans for the next operational period.
	12. Document all activity on Unit Log (ICS Form 214).

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Planning Section Chief Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Obtain briefing from Incident Commander: • Determine current resource status (ICS Form 201). • Determine current situation status/intelligence (ICS Form 201). • Determine current incident objectives and strategy. • Determine whether Incident Commander requires a written Incident Action Plan (IAP). • Determine time and location of first Planning Meeting. • Determine desired contingency plans.
	2. Activate Planning Section positions, as necessary, and notify Resources Unit of positions activated.
	3. Establish and maintain resource tracking system.
	4. Complete ICS Form 201, if not previously completed, and provide copies to Command, Command Staff, and General Staff.
	5. Advise Incident Command Post (ICP) staff of any significant changes in incident status.
	6. Compile and display incident status summary information. Document on ICS Form 209, Incident Status Summary (or other approved agency forms): • Forward incident status summaries to Agency Administrator and/or other designated staff once per operational period, or as required. • Provide copy to Public Information Officer.
	7. Obtain/develop incident maps.
	8. Establish information requirements and reporting schedules for ICP and field staff.
	9. Prepare contingency plans: • Review current and projected incident and resource status. • Develop alternative strategies. • Identify resources required to implement contingency plan. • Document alternatives for presentation to Incident Commander and Operations, and for inclusion in the written IAP.
	10. Meet with Operations Section Chief and/or Command, prior to Planning Meetings, to discuss proposed strategy and tactics and diagram incident organization and resource location.

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Planning Section Chief Position Checklist (continued)

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	11. Conduct Planning Meetings according to following agenda:

Sample Planning Meeting Agenda

Agenda Item	Responsible Party
1. Briefing on situation/resource status	Planning/Operations Section Chiefs
2. Discuss safety issues.	Safety Officer
3. Set/confirm incident objectives.	Incident Commander
4. Plot control lines & Division boundaries.	Operations Section Chief
5. Specify tactics for each Division/Group.	Operations Section Chief
6. Specify resources needed for each Division/Group.	Operations/Planning Section Chiefs
7. Specify facilities and reporting locations.	Operations/Planning/Logistics Section Chiefs
8. Develop resource order.	Logistics Section Chief
9. Consider communications, medical and transportation plans.	Logistics/Planning Section Chiefs
10. Provide financial update	Finance/Administration Section Chief
11. Discuss interagency liaison issues	Liaison Officer
12. Discuss information issues	Public Information Officer
13. Finalize, approve and implement plan.	Incident Commander/All

12. Supervise preparation and distribution of the written IAP, if indicated. Minimum distribution is to all Command, Command Staff, General Staff, and Operations personnel to the Division/Group Supervisor level:
    - Establish information requirements and reporting schedules for use in preparing the IAP.
    - Ensure that detailed contingency plan information is available for consideration by Operations and Command.
    - Verify that all support and resource needs are coordinated with Logistics Section prior to release of the IAP.
    - Include fiscal documentation forms in written IAP as requested by the Finance/Administration Section.
    - Coordinate IAP changes with General Staff personnel and distribute written changes, as appropriate.
13. Coordinate development of Incident Traffic Plan with Operations and the Ground Support Unit Leader.
14. Coordinate preparation of the Safety Message with Safety Officer.
15. Coordinate preparation of the Incident Communications Plan and Medical Plan with Logistics.
16. Instruct Planning Section Units in distribution of incident information.
17. Provide periodic predictions on incident potential.

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Planning Section Chief Position Checklist (continued)

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	18. Establish a weather data collection system, when necessary.
	19. Identify need for specialized resources; discuss need with Operations and Command; facilitate resource requests with Logistics.
	20. Ensure Section has adequate coverage and relief.
	21. Hold Section meetings as necessary to ensure communication and coordination among Planning Section Units.
	22. Ensure preparation of demobilization plan, if appropriate.
	23. Ensure preparation of final incident package and route to Agency Administrator for archiving or follow-up after Incident Management Team (IMT) demobilization.
	24. Provide briefing to relief on current and unusual situations.
	25. Ensure that all staff observe established level of operational security.
	26. Ensure all Planning functions are documenting actions on Unit Log (ICS Form 214).
	27. Submit all Section documentation to Documentation Unit.

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Logistics Section Chief Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Obtain briefing from Incident Commander: • Review situation and resource status for number of personnel assigned to incident. • Review current organization. • Determine which incident facilities have been/should be activated.
	2. Ensure Incident Command Post and other incident facilities are physically activated, as appropriate.
	3. Confirm resource ordering process.
	4. Assess adequacy of current Incident Communications Plan (ICS Form 205).
	5. Organize and staff Logistics Section, as appropriate, and consider the need for facility security, and Communication and Supply Units.
	6. Assemble, brief, and assign work locations and preliminary work tasks to Section personnel: • Provide summary of emergency situation. • Provide summary of the kind and extent of Logistics support the Section may be asked to provide.
	7. Notify Resources Unit of other Units activated, including names and location of assigned personnel.
	8. Attend Planning Meetings:

Sample Planning Meeting Agenda

Agenda Item	Responsible Party
1. Briefing on situation/resource status	Planning/Operations Section Chiefs
2. Discuss safety issues.	Safety Officer
3. Set/confirm incident objectives.	Incident Commander
4. Plot control lines & Division boundaries.	Operations Section Chief
5. Specify tactics for each Division/Group.	Operations Section Chief
6. Specify resources needed for each Division/Group.	Operations/Planning Section Chiefs
7. Specify facilities and reporting locations.	Operations/Planning/Logistics Section Chiefs
8. Develop resource order.	Logistics Section Chief
9. Consider communications, medical and transportation plans.	Logistics/Planning Section Chiefs
10. Provide financial update	Finance/Administration Section Chief
11. Discuss interagency liaison issues	Liaison Officer
12. Discuss information issues	Public Information Officer
13. Finalize, approve and implement plan.	Incident Commander/All

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Logistics Section Chief Position Checklist (continued)

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	9. Participate in preparation of Incident Action Plan (IAP): • Provide input on resource availability, support needs, identified shortages, and response time-lines for key resources. • Identify future operational needs (both current and contingency), in order to anticipate logistical requirements. • Ensure Incident Communications Plan (ICS Form 205) is prepared. • Ensure Medical Plan (ICS Form 206) is prepared. • Assist in the preparation of Transportation Plan.
	10. Review IAP and estimate section needs for next operational period; order relief personnel if necessary.
	11. Research availability of additional resources.
	12. Hold Section meetings, as necessary, to ensure communication and coordination among Logistics Branches and Units.
	13. Ensure coordination between Logistics and other Command and General Staff.
	14. Ensure general welfare and safety of Section personnel.
	15. Provide briefing to relief on current activities and unusual situations.
	16. Ensure that all personnel observe established level of operational security.
	17. Ensure all Logistics functions are documenting actions on Unit Log (ICS Form 214).
	18. Submit all Section documentation to Documentation Unit.

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Resource Unit Leader Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Obtain briefing from Planning Section Chief.
	2. Organize, staff, and supervise Unit, as appropriate, and provide for adequate relief.
	3. Establish check-in function at incident locations (ICS Form 211).
	4. Establish contact with incident information sources such as Staging Area Manager, Operations Section Chief, and initial Incident Commander to determine what resources have been assigned to the incident, their status, and location.
	5. Compile, maintain, and display resource status information on: 1) all tactical and support personnel and apparatus (including agency-owned, mutual aid, or hired), and 2) transportation and support vehicles: • Review ICS Form 201 for resource information. • Review Check-In List (ICS Form 211). • Confirm resources assigned to Staging. • Confirm resources assigned to tactical Operations organization. • Confirm resources assigned to other Command and General Staff functions.
	6. Establish and maintain resource tracking system.
	7. Maintain master roster of all resources at the incident: • Total number of personnel assigned to the incident. • Total number of resources assigned to each Section and/or Unit. • Total number of specific equipment/apparatus types.
	8. Assist in preparation of the Incident Action Plan (IAP): • Prepare Organization Chart (ICS Form 207) and post in each room of the Incident Command Post (ICP). • Assist in preparing the Organizational Planning Worksheet (ICS Form 215). • Prepare Organization Assignment List (ICS Form 203). • Prepare Division/Group Assignment Sheets (ICS Form 204).
	9. Participate in Planning Meetings, as assigned.
	10. Provide briefing to relief on current and unusual situations.
	11. Assist in identification of additional and special resources: • Other disciplines. • Technical Specialists. • Resources needed to implement contingency plans.
	12. Document all activity on Unit Log (ICS Form 214).

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Communications Unit Leader Position Checklist

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	1. Obtain briefing from the Logistics Section Chief or Service Branch Director.
	2. Organize and staff Unit as appropriate: • Assign Communications Center Manager and Lead Incident Dispatcher • Assign Message Center Manager and ensure adequate staff is assigned to answer phones and fax machines.
	3. Assess communications systems and frequencies in use; advise on communications capabilities and limitations.
	4. Develop and implement effective communications procedures (flow) internal and external to the incident and Incident Command Post.
	5. Assess Incident Command Post phone load and request additional lines as needed.
	6. Prepare and implement Incident Communications Plan (ICS Form 205): • Obtain current organizational chart. • Determine most hazardous tactical activity; ensure adequate communications. • Make communications assignments to all other Operations elements, including volunteer, contract or mutual aid. • Determine Command communications needs. • Determine support communications needs. • Establish and post any specific procedures for use of Incident Command Post communications equipment.
	7. Include cellular phones and pagers in Incident Communications Plan (ICS From 205), if appropriate: • Determine specific organizational elements to be assigned telephones. • Identify all facilities and locations with which communications must be established (shelters, press areas, liaison areas, agency facilities, other government entities' Emergency Operations Centers (EOCs), etc.), identify and document phone numbers. • Determine which phones and numbers should be used by what personnel and for what purpose. Assign specific telephone numbers for incoming calls and report these numbers to staff and off-site partners such as other local jurisdictions, State and Federal agencies.
	8. Activate, serve as contact point, and supervise the integration of volunteer radio organizations into the communications system.
	9. Ensure radio and telephone logs are available and being used.

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Communications Unit Leader Position Checklist (continued)

The following checklist should be considered as the minimum requirements for this position. Note that some of the tasks are one-time actions; others are ongoing or repetitive for the duration of the incident.

√	TASK
	10. Determine need and research availability of additional nets and systems: • Order through Supply Unit after approval by Section Chief. • Federal Systems: ○ Additional radios and other communications devices, including repeaters, radio-telephone interconnects and satellite down-link capabilities may be available through FEMA or the USDA Forest Service.
	11. Document malfunctioning communications equipment, facilitate repair.
	12. Establish and maintain communications equipment accountability system.
	13. Provide technical information, as required, on: • Adequacy of communications system currently in use. • Geographic limitation on communications equipment. • Equipment capabilities. • Amount and types of equipment available. • Anticipated problems in the use of communications equipment.
	14. Estimate Unit needs for expected operations; order relief personnel.
	15. Provide briefing to relief on current activities and unusual situations.
	16. Document all activity on Unit Log (ICS Form 214).

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Incident Management Strategy Worksheet

_____
(Incident)
☐ Medium or ☐ Large

Objectives:
(Desired outcomes as a result of managing the incident)

WHAT

Resources Needed:
(Personnel and agencies)

WHO

Strategies:
(Action processes by which the Objectives are met)

HOW

PRIORITIES: *1) Life Safety; 2) Incident Stability; and, 3) Property Conservation*

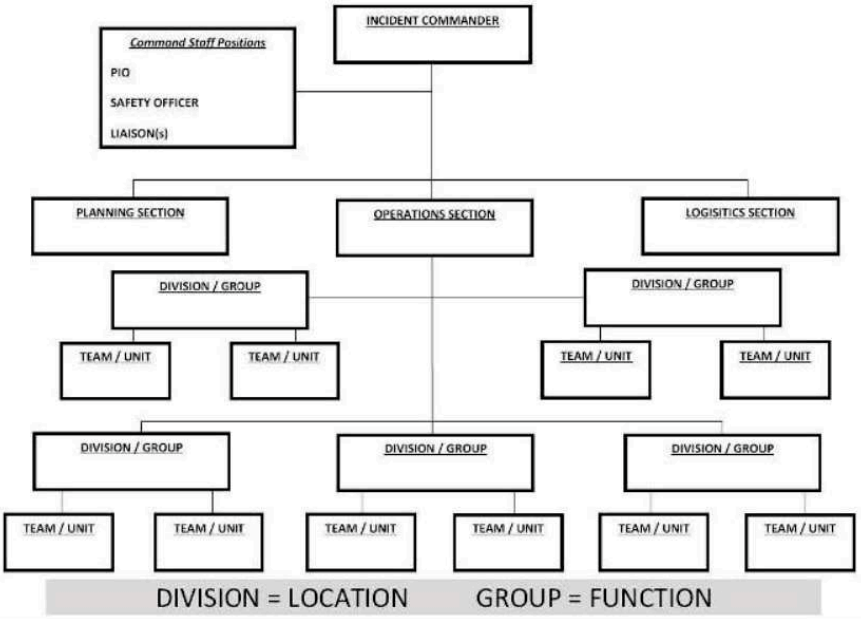
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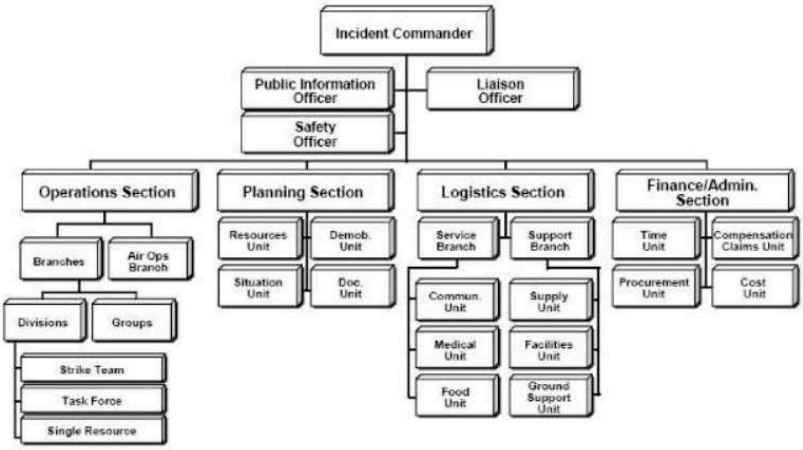
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Sample Organizational Charts





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Fourteen Principles of Incident Command

1. **Common Terminology:** Using common terminology helps to define organizational functions, incident facilities, resource descriptions, and position titles.
2. **Chain of Command and Unity of Command:** Chain of command refers to the orderly line of authority within the ranks of the incident management organization. Unity of command means that every individual has a designated supervisor to whom he or she reports at the scene of the incident. These principles clarify reporting relationships and eliminate the confusion caused by multiple, conflicting directives. Incident managers at all levels must be able to control the actions of all personnel under their supervision.
3. **Management by Objectives:** Includes establishing overarching objectives; developing and issuing assignments, plans, procedures, and protocols; establishing specific, measurable objectives for various incident management functional activities; and directing efforts to attain the established objectives.
4. **Information and Intelligence Management:** The incident management organization must establish a process for gathering, sharing, and managing incident-related information and intelligence.
5. **Resource Management:** Resource management includes processes for categorizing, ordering, dispatching, tracking, and recovering resources. It also includes processes for reimbursement of resources, as appropriate. Resources are defined as personnel, teams, equipment, supplies, and facilities available or potentially available for assignment or allocation in support of incident management and emergency response activities.
6. **Integrated Communications:** Facilitate incident communications through the development and use of a common communications plan and interoperable communications processes and architectures.
7. **Accountability:** Effective accountability at all jurisdictional levels and within individual functional areas during incident operations is essential. To that end, the following principles must be adhered to:
    - Check-In: All responders, regardless of agency affiliation, must report in to receive an assignment in accordance with the procedures established by the Incident Commander.
    - Incident Action Plan: Response operations must be directed and coordinated as outlined in the IAP.
    - Unity of Command: Assign each individual involved in incident operations to only one supervisor.
    - Span of Control: Supervisors must be able to adequately supervise and control their subordinates, as well as communicate with and manage all resources under their supervision.
    - Resource Tracking: Supervisors must record and report resource status changes as they occur.
8. **Modular Organization:** The Incident Command organizational structure develops in a top-down, modular fashion based on the size and complexity of the incident, as well as the specifics of the hazard environment created by the incident.

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9. **Reliance on an Incident Action Plan:** Incident Action Plans (IAPs) provide a coherent means of communicating the overall incident objectives in the contexts of both operational and support activities.
10. **Unified Command:** In incidents involving multiple jurisdictions, a single jurisdiction with multi-agency involvement, or multiple jurisdictions with multi-agency involvement, Unified Command allows agencies with different legal, geographic, and functional authorities and responsibilities to work together effectively without affecting individual agency authority, responsibility, or accountability.
11. **Pre-designated Incident Locations and Facilities:** Establish various types of operational locations and support facilities near an incident to accomplish a variety of purposes. Typical pre-designated facilities include Incident Command Posts, Bases, Camps, Staging Areas, Mass Casualty Triage Areas, and others as required.
12. **Manageable Span of Control:** Span of control is crucial to effective and efficient incident management. Within ICS, the span of control of any individual with incident management supervisory responsibility should range from three to seven subordinates.
13. **Transfer of Command:** Clearly establish the command function from the beginning of an incident. When command is transferred, the process must include a briefing that captures all essential information for continuing safe and effective operations.
14. **Deployment:** Personnel and equipment should respond only when requested or when dispatched by an appropriate authority.

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Firearms

310.1 PURPOSE AND SCOPE

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

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

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

310.2 POLICY

The Atherton Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

310.2.1 DUTY FIREARMS

Personnel hired on or before October 1, 2018 shall be considered grandfathered into the following firearms:

(a) The primary service firearm to be carried by Department personnel shall conform to the following specifications:

1. The primary issue service sidearm for the Department is the Glock model 17/19/34 9 mm semi-auto pistol.
2. Other approved sidearms for Department and reserve personnel include: Colt, Glock, Beretta, H&K, Sig-Sauer, Springfield, Smith and Wesson or Walther.
3. Caliber:.380, 9mm,.40 or.45 caliber (with authorization from the Chief of Police).
4. Barrel length: Uniformed personnel - not less than three inches, or more than six inches.
5. Barrel length: Plain-clothes personnel - not less than one inch, or more than six inches.
6. Sights: Iron sights (day or night). Red dot (optional in addition to iron sights)

(b) When authorized by the Chief of Police, his designee, or in time of emergency, properly trained officers may use other available Department firearms as may be deemed necessary. These firearms include, but may not be limited to:

1. Colt AR-15.
2. Department approved gas weapons.
3. Remington 12 gauge shotguns.

Backup and Registration: Primary, substitute and backup firearms authorized for on-duty use shall be registered with the Department in RIMS Asset Management.

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310.2.2 PATROL RIFLES

AR-15 PATROL RIFLES:

The authorized patrol rifle issued by the Department is the AR-15. Properly trained and qualified officers shall carry a department issued AR-15, or a personally owned AR-15 rifle authorized by the Chief of Police, while in a patrol function.

PERSONALLY OWNED AR-15 PATROL RIFLES:

(a) State law allows the purchase, possession, and use of 'assault rifles' by sworn peace officers for law enforcement purposes, whether on or off-duty, when authorized by the Chief of Police (Penal Code § 30630).

(b) With written authorization of the Chief of Police, sworn peace officers employed by this agency may purchase certain rifles classified as assault rifles for on and off-duty law enforcement purposes from a licensed firearms dealer.

(c) Upon receipt of a personally owned assault rifle, the officer shall, within 90 days, register the assault rifle with the California Department of Justice (DOJ) pursuant to Article 5 of the Penal Code commencing with § 30900. Documentation of registration shall be retained in the officer's personnel file. Serial numbers of those rifles will be recorded and maintained on file by the Rangemaster and Training Manager in RIMS Asset Management.

(d) Only rifles with the following characteristics shall be authorized by the Chief of Police for purchase by members of this agency:

1. Semi-automatic 5.56mm/.223 caliber.
2. AR-15 style platform from a reputable manufacturer.
3. Barrel length of at least 16" and overall length of at least 30".
4. A tactical sling shall be attached to the rifle.
5. Accessories such as optics, tactical lights, slings, etc. shall be of good quality and approved by a Department Rangemaster.
6. Department repair or replacement for damaged rifle and /or accessories during the course of duty shall be at the discretion of the Chief of Police. Any repairs or modifications to personally owned AR-15 rifles must be approved and inspected by a department armorer.
7. Approval for repairs or modifications to personally owned firearms carried on duty shall be made only by the Chief of Police or his designee.

(e) Prior to deploying a Department issued or personally owned AR-15 rifle in the field, the Officer must have successfully completed the Department rifle orientation and pass the Department's rifle qualification course. Once authorized to deploy an AR-15 rifle,

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officers shall comply with the guidelines set forth in policy section 312.4- Firearms Qualifications, which requires all officers to qualify once every four months.

(f) Officers shall carry only ammunition issued by this Department. Additional ammunition maybe carried in either full magazines or full boxes and must be Department approved.

PATROL READY:

Every qualified officer carrying an AR-15 rifle in the field shall maintain the rifle in a "patrol ready" condition until deployed. A rifle is considered in a "patrol ready" condition when it has been inspected by the assigned officer, the fire selector switch is in the safe position, the chamber is empty, and a fully loaded magazine is inserted into the magazine well.

310.2.3 AUTHORIZED SECONDARY FIREARM

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

(a) The firearm shall be of good quality and workmanship, shall be in good working order, and on the department's list of approved firearms, or approved by the Chief of Police.

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

(c) The purchase of the firearm shall be the responsibility of the officer.

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

(e) The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection annually.

(f) Ammunition shall be department issued.

(g) Prior to carrying the secondary firearm, personnel shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Officers must demonstrate proficiency and safe handling, and that the firearm functions properly.

(h) Personnel shall provide written notice of the make, model, color, serial number, and caliber of a second firearm to the Rangemaster and have it added to RIMS Asset Management.

310.2.4 CARRYING A FIREARM OFF-DUTY

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, shall be in good working order, and on the department's list of approved firearms.

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(b) The purchase of the firearm (other than the duty weapon) 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 annual 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 every twelve (12) months. The range qualification dates will be specified by 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 firearm used.

(i) Officers shall only carry department-authorized/issued ammunition.

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

310.2.5 AMMUNITION

Officers shall carry only Department-authorized/issued ammunition. Additional ammunition may be carried in either full magazines or full boxes and must be Department approved.

Officers may request to the head range master 50 rounds of training ammunition and 1 target per month for training off duty. Officers are to use the ammunition for off duty training and may not sell or keep the ammunition. The use of a range for off duty training will be reserved and paid for by the officer so as not to interfere with Department use of nearby ranges for scheduled training or quarterly qualifications.

310.2.6 ALCOHOL AND DRUGS

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

310.2.7 LASER SIGHTS

Laser sights may only be installed on a firearm carried on or off-duty after they have been examined and approved by the Rangemaster.

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(a) Any approved laser sight shall only be installed in strict accordance with manufacturer specifications.

(b) The officer shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

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

310.2.8 APPROVED FIREARM HOLSTERS

(a) On-Duty Uniform Holster:

1. Level 2 or Level 3 Security Holster that has been approved by the Chief of Police or his/her designee.

(b) Non-Uniformed Officers:

1. Level 1 or Level 2 Security Holster that has been approved by the Chief of Police or his/her designee.

(c) Administrative Officers:

1. Level 1 or Level 2 Security Holster that has been approved by the Chief of Police or his/her designee.

310.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

All other weapons not provided by the Department, 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 members in the performance of their official duties without the express written authorization of the member's Commander. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

310.3.1 SAFETY CONSIDERATIONS

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

(b) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster.

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

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(d) Shotguns or rifles removed from vehicles or the Armory shall be loaded and unloaded in the parking lot and outside of the vehicle. At no time will a shotgun or rifle be left in the Armory loaded.

(e) 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.

(f) Any firearm 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. It shall be promptly presented to the Department Rangemaster for inspection. Any firearm determined to be in need of service or repair during an inspection by the department Rangemaster will be immediately removed from service. If the firearm is the officer's primary duty firearm, a replacement firearm will be issued to the officer until the duty firearm is serviceable.

310.3.2 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 (Penal Code § 25100).

Members shall not permit department-issued firearms to be handled by anyone who is not authorized by the Department to do so.

Members shall be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

310.3.3 FIREARM SECURITY IN VEHICLES

Members of the Atherton Police Department, whether on or off duty, are responsible for the security of all firearms under their care and control, to include both privately owned and Department issued firearms. When members are in a public place and in possession of a firearm, they should maintain the firearm secured on their person at all times. Should it become necessary to secure a firearm inside an unattended vehicle for a short period of time, members will adhere to the following procedures:

(a) Firearm(s) shall not be secured in the glove box, console or any other place in the passenger compartment of a vehicle.

(b) If it becomes necessary to secure a firearm in an unattended vehicle for a short period of time, the firearm(s) shall be secured in the vehicle’s locked trunk.

(c) In the case of an SUV, pickup truck or other vehicle without a trunk, the firearm(s) shall be locked in a vehicle gun vault, secured to the passenger compartment, not visible from the outside of the vehicle (Penal Code sections 16850, 25140, and 25452).

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If a member is unable to secure firearm(s) in an unattended vehicle as described above, the member shall not leave a firearm in an unattended vehicle. Under no circumstances shall any firearm be left unattended in any vehicle overnight.

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

(Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

310.3.4 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 officer reasonably believes that they appear necessary, effective and reasonably safe.

310.4 FIREARMS QUALIFICATIONS

All sworn personnel are required to qualify once every 4-month shift rotation with their duty firearm and the AR-15 rifle. All sworn personnel are also required to annually qualify with the shotgun and their off-duty and secondary firearms on an approved range course. In addition, all sworn personnel are required to qualify once every 4-month shift rotation at a Low-Light (Night) Range with their duty firearm and the AR-15 rifle.

The Training Manager shall keep accurate records of qualifications, repairs, maintenance, and training. In addition to regular qualification schedules, the Rangemaster shall be responsible for providing all sworn personnel with annual practical training. At least annually, all personnel carrying a firearm will receive training on the department Use of Force policy and demonstrate their knowledge and understanding.

310.4.1 NON QUALIFICATION

(a) The Commander is expected to ensure that all sworn personnel under his/her command qualify with their duty firearms once each four month period.

1. The Rangemaster will determine the acceptable qualifying score and shall review and record all scores.
2. All sworn personnel and reserve officers must qualify once each four month period.

(b) Range Schedule:

1. The Rangemaster will post the times and dates the Rangemaster will be on the range.
2. If any officer is unable to qualify, or attend a range training session for any reason, including injury, illness, duty status, or scheduling conflict, that officer shall inform his or her supervisor and the Rangemaster in writing (via E-mail) and attend another scheduled range date as soon as possible.

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(c) Failure to comply with the regulations governing qualifications, duty firearms and off duty firearms may result in disciplinary action. The first may consist of a written admonishment, the second may consist of suspension or other more severe action.

310.4.2 RANGE RECORDS

The Department Rangemaster will maintain records of firearm qualifications for Department personnel and immediately notify the Training Manager of those that have to qualify during a given qualification cycle.

Only the Chief of Police may exempt personnel from the provisions mandated in this order.

310.4.3 RANGE NON-QUALIFICATION

Members who repeatedly fail to qualify will be relieved from field assignment and appropriate disciplinary action may follow.

Sworn members who fail to qualify during their range session shall be provided remedial training and will be subject to the following requirements:

(a) Additional range assignments may be required until consistent firearm proficiency is demonstrated.

(b) Members shall be given credit for a range qualification after remedial training and a qualifying score is obtained.

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

1. Unauthorized range makeup.
2. Failure to qualify after remedial training.

310.5 SAFE HANDLING, INSPECTION AND STORAGE

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

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

(b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Members shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.

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

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

(e) Members 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 an arrestee, but shall place all

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firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.

(f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.

(g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Rangemaster approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Rangemaster will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

310.6 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, TASER device, 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.

310.6.1 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.

310.7 FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shooting and Death Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, written reports shall be made as follows:

(a) If on-duty at the time of the incident, the member shall file a written report with his/her Commander or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.

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(b) If off-duty at the time of the incident, a written report shall be submitted or recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

310.8 RANGEMASTER DUTIES

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

The range shall remain operational and accessible to department members during hours established by the Department.

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

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

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

310.8.1 DEPARTMENT MEMBER RESPONSIBILITY

Department members will turn their firearm(s) into the Rangemaster for inspection on a yearly basis. The date will coincide with their anniversary date of hire, or a date designated by the Rangemaster.

310.9 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 based on the law and published TSA rules.

(b) Officers must carry their Atherton Police Department identification card, bearing the officer’s name, a full-face photograph, identification number, the officer’s signature

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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 license, passport).

(c) The Atherton Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Atherton 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-appointed instructor.

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

(g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.

(h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

(i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.

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

310.10 MAINTENANCE AND REPAIR

All firearms carried on duty, whether department issued or personally owned, shall be maintained in a clean, serviceable condition.

310.10.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

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

Approval for repairs or modifications to personally owned firearms carried on duty shall be made only by the Chief of Police or his designee.

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Firearms

310.11 CARRYING FIREARMS OUT OF STATE

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

(a) The officer shall carry his/her Atherton 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 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.

310.12 CRITICAL INCIDENT SEIZURE

With the exception of a secondary firearm, any officer whose duty firearm (primary service firearm or rifle) is taken out of service and retained by the Department from an officer involved incident shall be issued a replacement firearm until the time that their firearm is returned from evidence. This practice is in accordance with Lexipol policy 310, subsection 310.2.5(d) -Officer Involved Critical Incident Protocol, County of San Mateo.

310.13 AUDIT OF THE FIREARMS PROGRAM

An annual audit of the Firearms program will be conducted by the Commander or designee.

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BolaWrap

311.1 USE OF THE BOLAWRAP

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

311.1.1 APPLICATION OF THE BOLAWRAP DEVICE

The BolaWrap device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

(a) The subject is assaultive, actively resisting, or passively non-compliant.

(b) The subject has demonstrated, by words or actions, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, himself or herself, or others.

Mere flight from a pursuing member, without other known circumstances or factors, is not good cause for the use of the BolaWrap device to apprehend an individual.

311.1.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals who are handcuffed or otherwise restrained.

(d) Individuals detained in a police vehicle.

(e) Individuals in danger of falling or becoming entangled in machinery or heavy equipment, which could result in death or serious bodily injury.

(f) Individuals near any body of water that may present a drowning risk.

(g) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

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

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BolaWrap

311.2 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower extremities or lower arms. The head, neck, chest and groin shall be avoided. If the dynamics of a situation, or officer safety, do not permit the officer to limit the application of the BolaWrap device to a precise target area, officers should monitor the condition of the subject if the device strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

311.3 MULTIPLE APPLICATIONS OF THE BOLAWRAP DEVICE

Multiple officers may use the BolaWrap device simultaneously on a subject, referred to in training as a “double wrap.” The intent of the “double wrap” is to immobilize a subject and ensure effective application of the device. In this instance, the preferred application would be to apply the BolaWrap “high” and “low”, or to the legs and lower arms.

If the first application of the BolaWrap device appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the device, including:

(a) Whether the probes are making proper contact.

(b) Whether the Kevlar cord and/or anchor hooks are making proper contact.

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

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

(e) Under exigent circumstances, nothing in this policy prohibits an officer from deploying the BolaWrap at a subject without requesting or having the presence of additional officers. This is not an ideal application of the device.

311.4 ACTIONS FOLLOWING DEPLOYMENT

Officers shall notify a supervisor of all BolaWrap device discharges. The cartridge serial number shall be documented in the report. In the event the device barbs penetrate the subject’s skin, the officer will request medical care for the subject. Only medical personnel shall remove barbs embedded in the subject’s skin. The Kevlar cord shall be cut and removed prior to transporting the subject.

311.5 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department BolaWrap devices while off-duty. Members shall ensure that BolaWrap devices 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.

311.6 DOCUMENTATION

Officers shall document all BolaWrap device discharges in the related arrest/crime report. Notification shall also be made to a supervisor. Unintentional discharges, pointing the device at a person, and laser activations will also be documented on the report form.

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BolaWrap

311.7 REPORTS

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

(a) Identification of all personnel firing BolaWrap devices.

(b) Identification of all witnesses.

(c) If needed, medical care provided to the subject.

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

311.8 TRAINING

Personnel who are authorized to carry the BolaWrap device shall be permitted to do so only after successfully completing the initial Department-Approved training. Any personnel who have not carried the BolaWrap device as a part of their assignment for a period of six months or more shall be recertified by a Department-Approved BolaWrap Device Instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued BolaWrap devices shall occur every year. A reassessment of the officer's knowledge and/or practical skill may be required at any time if deemed appropriate by a Department BolaWrap Instructor. All training and proficiency for BolaWrap devices will be documented in the officer's training file.

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

Officers who do not carry BolaWrap devices should receive training that is sufficient to familiarize themselves with the device and with working with members who use the device. The Training Manager is responsible for ensuring all members who carry BolaWrap devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of BolaWrap devices during training could result in injury to personnel and should not be mandatory for certification. The Department BolaWrap Instructors should ensure that all training includes:

(a) A review of this policy.

(b) Performing weak-hand draws, or cross-draws, to reduce the possibility of accidentally drawing and firing a firearm.

(c) Target area considerations, to include techniques or options to reduce the unintentional application to the head, neck, chest and groin.

(d) Handcuffing a subject immediately after the application of the BolaWrap device and transitioning to other force options.

(e) De-escalation techniques.

(f) Restraint techniques that do not impair respiration following the application of the BolaWrap device.

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Vehicle Pursuits

312.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to reduce the potential for pursuit-related collisions. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers.

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuits are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Officers must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. The officer(s) conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable officer would do under the circumstances. An unreasonable individual’s desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

It is the policy of the Atherton Police Department that officers of this Department will adhere to the San Mateo County Inter-Agency Pursuit Guidelines.

312.1.1 DEFINITIONS

Blocking - A low-speed tactic where one or more authorized police department 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.

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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 high-speed driving or other evasive tactics, such as driving off a highway, turning suddenly, or driving in a legal manner but willfully failing to yield to an officer's signal to stop.

312.2 OFFICER RESPONSIBILITIES

Vehicle pursuits shall only be conducted using authorized police department 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).

312.2.1 WHEN TO INITIATE A PURSUIT

The decision to pursue must be based solely on the facts known to the officer at the time the officer initiates a pursuit. Facts unknown to the officer, no matter how compelling, cannot be considered in later determining whether the pursuit was justified. Pursuit driving is authorized when the officer knows or has reasonable grounds to believe the violator has committed, or attempted to commit, a life endangering crime. Life endangering crimes may include: Murder, kidnapping, armed robbery, rape, arson or bombing of an occupied structure, and assault with a deadly weapon.

When evaluating if the suspect has committed or attempted to commit a life endangering crime, the officer should evaluate if the suspect is an imminent threat to public safety. Is the suspect armed, or a threat to the safety of officers or citizens if allowed to escape? For example, was the suspect driving in a manner likely to endanger life before the police were involved and is someone likely to be injured if the suspect is not stopped?

Officers will not initiate a pursuit if they conclude from the nature of the circumstances that the potential risks would not be worth the benefit of apprehension. Safety of the officer(s) and public must be continuously considered with the following circumstances when deciding to initiate, sustain, determine tactics, or terminate the pursuit:

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(a) The seriousness of the known or reasonably suspected crime and its relationship to community safety.

(b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists, and others.

(c) 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 dispatcher 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 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.

(l) Whether the pursuing vehicle is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with an arrestee, or other passenger, in the pursuit vehicle unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the arrestee in transport. A vehicle containing more than a single arrestee should not be involved in a pursuit.

312.2.2 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.

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.

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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.

(h) Extended pursuits of violators for misdemeanors not involving violence, risk of serious harm, or weapons (independent of the pursuit) are generally discouraged.

312.2.3 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds should take into consideration public safety, officer safety, and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, officers and supervisors should also consider these factors when determining the reasonableness of the speed of the pursuit:

(a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.

(b) Pursuit speeds have exceeded the driving ability of the officer.

(c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

312.3 PURSUIT UNITS

When involved in a pursuit, unmarked police department 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 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.

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Vehicle Pursuits

312.3.1 MOTORCYCLE OFFICERS
When involved in a pursuit, police department motorcycles should be replaced by marked four-wheel emergency vehicles as soon as practicable.

312.3.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT
Officers operating vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

312.3.3 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 dispatcher 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.

312.3.4 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.

(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.

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(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.

312.3.5 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.

312.3.6 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.

312.3.7 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

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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.

312.3.8 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.

312.4 SUPERVISORY CONTROL AND RESPONSIBILITIES

Available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department.

The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for:

(a) Immediately notifying involved unit and the dispatcher 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.

(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.

(j) Controlling and managing Atherton Police Department units when a pursuit enters another jurisdiction.

(k) Preparing a post-pursuit review and documentation of the pursuit.

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1. Supervisors should initiate follow up or additional review when appropriate.

312.4.1 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 Commander.

In addition, the Watch Commander is responsible for the following:

(a) Safety of the public, all officers, persons in or on the offender's vehicle, any hostage(s), and the offender(s).

(b) Command and control tactics employed to apprehend offender(s).

(c) Use of force.

(d) Injuries to any person (i.e., from traffic collision or taking offender(s) into custody) and prompt medical attention to injured persons.

(e) Expeditious removal from the scene of offender(s) and other involved persons.

(f) Clearing the area of uninvolved or unnecessary law enforcement officers.

(g) The reporting and investigating of traffic collisions related to the pursuit.

(h) Notification of command and management personnel.

312.5 DISPATCH

If the pursuit is confined within the Town limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved units should, whenever available, switch radio communications to a tactical or emergency channel most accessible by participating agencies and units.

The Communication Center (dispatcher) shall be responsible for the following:

(a) Acknowledge the pursuing unit and identify other units that are providing assistance.

(b) When appropriate, direct units to the County Mutual Aid frequency designated by County Communications.

(c) Relay all pertinent information regarding the pursuit to the County Dispatcher.

(d) Notify the Watch Commander.

(e) Coordinate the local pursuit with County Communications.

(f) If the pursuit leaves the Town limits, the dispatcher will relinquish control of the pursuit to County Communications.

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(g) If the pursuit leaves the Town, and County Communications is in control, the dispatcher will continue monitoring the pursuit to provide updates to the Watch Commander for coordination of necessary services.

312.5.1 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.

312.6 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.

312.6.1 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit is responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a supervisor may authorize units from this department to join the pursuit until sufficient units from the initiating agency join the pursuit or until additional information is provided allowing withdrawal of the pursuit.

When a request is made for this department to assist or take over a pursuit that has entered the jurisdiction of Atherton Police Department, the supervisor should consider:

(a) The public's safety within this jurisdiction.

(b) The safety of the pursuing officers.

(c) Whether the circumstances are serious enough to continue the pursuit.

(d) Whether there is adequate staffing to continue the pursuit.

(e) The ability to maintain the pursuit.

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 will terminate at the Town limits provided that the pursuing officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers should provide appropriate assistance to officers from the allied agency including but not limited to

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scene control, coordination and completion of supplemental reports, and any other reasonable assistance requested or needed.

312.6.2 PURSUITS GOING INTO ANOTHER JURISDICTION

(a) Any time a vehicle pursuit leaves the Town of Atherton, the pursuing officers shall follow the direction of the dispatcher for the appropriate radio channel to use.

(b) If a pursuit extends into another police jurisdiction, the Watch Commander shall make the decision if the allied agency should assume primary control of the pursuit.

(c) Depending on the circumstances, the Watch Commander may direct the Atherton Police Department unit to discontinue the pursuit and allow the allied agency to continue. The Atherton unit should be directed to proceed to the location where the pursuit is terminated to provide information as required for an arrest.

(d) The initiating unit is responsible for the prosecution of the violation that caused the pursuit.

(e) Matters of custody may be decided at the termination of the pursuit between the Watch Commander and the allied agency.

312.7 WHEN PURSUIT INTERVENTION IS AUTHORIZED

Whenever practicable, an officer shall 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.

312.7.1 USE OF FIREARMS

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

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle (see the Use of Force Policy).

312.7.2 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.

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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.
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.

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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 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:

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.

312.7.3 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.

312.8 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

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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.
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 vehicle pursuit reports to minimally include policy suitability, policy compliance, and training or equipment needs.

312.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

The Training Manager 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.

312.8.2 POLICY REVIEW

Officers of this department shall certify in writing that they have received, read, and understand this policy initially, upon any amendments, and whenever training on this policy is provided. The

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POST attestation form, or an equivalent form, may be used to document the compliance and should be retained in the member's training file.

312.9 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.

312.10 POLICY

It is the policy of this department to balance the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

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Officer Response to Calls

314.1 PURPOSE AND SCOPE

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

314.2 RESPONSE TO CALLS

Officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Officers responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.

Responding with emergency light(s) and siren does not relieve the officer of the duty to continue to drive with due regard for the safety of all persons. The use of any other warning equipment without a red light and siren does not provide any exemption from the Vehicle Code.

Officers should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required. Officers not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

314.2.1 AUTHORIZED CODE-3 CALLS

Authorized Code-3 calls include, but are not limited to:

(a) Traffic collisions with reported injury and details.

(b) Scenes of major disasters.

(c) Aiding an officer in distress.

(d) Medical emergencies.

(e) In progress violent felonies or misdemeanors.

314.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify Dispatch.

If circumstances permit, the requesting officer should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

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314.3.1 NUMBER OF UNITS ASSIGNED
Normally, only one unit should respond to an emergency call Code-3 unless the Watch Commander authorizes an additional unit(s).

314.4 INITIATING CODE 3 RESPONSE

If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify Dispatch. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, Dispatch shall be notified and the Watch Commander will make a determination as to whether one or more officers driving Code-3 is appropriate.

314.5 RESPONSIBILITIES OF RESPONDING OFFICERS

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.

314.6 COMMUNICATIONS RESPONSIBILITIES

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

(a) Attempt to assign the closest available unit to the location requiring assistance

(b) Immediately notify the Watch Commander

(c) Confirm the location from which the unit is responding

(d) Notify and coordinate allied emergency services (e.g., fire and ambulance)

(e) Continue to obtain and broadcast information as necessary concerning the response and monitor the situation until it is stabilized or terminated

(f) Control all radio communications during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor

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Officer Response to Calls

314.7 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

314.8 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 and Dispatch of the equipment failure so that another unit may be assigned to the emergency response.

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Police Service Animals (PSA)

315.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of Police Service Animals to augment police services to the community including, but not limited to, locating individuals and contraband and apprehending criminal offenders.

315.2 POLICY

It is the policy of the Atherton Police Department that teams of handlers and Police Service Animals meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

315.3 ASSIGNMENT

Police Service Animal teams are assigned to the patrol division and function as any other patrol officer.

315.3.1 UNIT STRUCTURE AND PERSONNEL

The Police Service Animal Unit has been organizationally assigned under the command of the Atherton Police Commander.

315.4 POLICE SERVICE ANIMAL COORDINATOR

The Police Service Animal coordinator shall be appointed by the Chief of Police, and be directly responsible to the Patrol Division or the authorized designee.

The responsibilities of the coordinator include but are not limited to:

(a) Reviewing all Police Service Animal use reports to ensure compliance with policy and to identify training issues and other needs of the program.

(b) Maintaining a liaison with the vendor kennel.

(c) Maintaining a liaison with command staff and functional supervisors.

(d) Maintaining a liaison with other agency Police Service Animal coordinators.

(e) Maintaining accurate records to document Police Service Animal activities.

(f) Recommending and overseeing the procurement of equipment and services for the teams of handlers and Police Service Animals.

(g) Scheduling all Police Service Animal related activities.

(h) Ensuring the Police Service Animal teams are scheduled for regular training to maximize their capabilities.

315.4.1 EQUIPMENT

INDIVIDUAL HANDLER EQUIPMENT:

The Police Service Animal Supervisor must inspect and approve all equipment to be used by individual handlers before it is used for training or field deployment. This approval will also apply

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to any equipment modifications. All equipment will be in good working order and e-collars will be fully charged during on-duty hours and training. Any damages to equipment and/or requests for repairs/replacements will be documented and forwarded to the Police Service Animal Supervisor.

The following equipment should be issued to each handler and recorded by the Police Service Animal Supervisor on the “Police Service Animal Handler Inventory Log”:

- Hard sleeve
- Muzzle
- 36-40” leash (or equivalent based on handler’s waist size)
- Pinch collar
- Electric collar (e-collar) with charger and remote
- 40’ leash (long line) x2
- Flat collar with POLICE ID
- Fur saver
- 2 water bowls (for vehicle and home)
- Police Service Animal toy or other reward
- Deployment bag or box
- Soft body armor (Police Service Animal)
- Tracking/rappelling harness(es)
- 30’ retractable leash
- Nomex gloves or similar
- Gas mask and pouch
- Portable radio with frequencies compatible with SWAT/SEU
- Two-wire radio microphone
- Patrol-issued body armor
- Tactical ballistic vest (same as SWAT) with carrier
- Belt and nylon thigh holster

TEAM EQUIPMENT:

The Police Service Animal Supervisor must inspect and approve all equipment to be used by the Police Service Animal Unit as a team before it is used for training or field deployment. This approval will also apply to any equipment modifications. All equipment will be in good working order and inspected annually by the Police Service Animal Supervisor. Any damages to equipment and/or requests for repairs/replacements will be documented and forwarded to the Police Service Animal Supervisor.

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Police Service Animals (PSA)

The following equipment should be maintained and available for use by the Police Service Animal Unit as a team or individually:

- Bite Suits (one medium size and one large size)
- Hand Protectors (2 sets)
- Boots (foot protection)
- 100’ leash (long line)
- Scratch pants
- Undercover sleeves
- Protective helmets (2) for agitators (football-style with face shield)
- Ski vests (2) for agitators (rib protectors for muzzle work)
- “Police Service Animal Training” signs (2 minimally)
- Hurdles
- Red Guns (four)

315.5 REQUESTS FOR POLICE SERVICE ANIMAL TEAMS

Patrol Division members are encouraged to request the use of a Police Service Animal. Requests for a Police Service Animal team from department units outside of the Patrol Division shall be reviewed by the Watch Commander.

315.5.1 OUTSIDE AGENCY REQUESTS

All requests for Police Service Animal assistance from outside agencies must be approved by the Watch Commander and are subject to the following:

(a) Police Service Animal teams shall not be used for any assignment that is not consistent with this policy.

(b) The Police Service Animal handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.

(c) Calling out off-duty Police Service Animal teams is discouraged.

(d) It shall be the responsibility of the Police Service Animal handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.

(e) It shall be the responsibility of the Police Service Animal handler to complete all necessary reports or as directed.

315.5.2 PUBLIC DEMONSTRATIONS

All public requests for a Police Service Animal team shall be reviewed and, if appropriate, approved by the Police Service Animal coordinator prior to making any resource commitment. The Police Service Animal coordinator is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Police Service Animal handlers shall not

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demonstrate any apprehension work unless authorized to do so by the Police Service Animal coordinator.

315.6 APPREHENSION GUIDELINES

A Police Service Animal may be used to locate and apprehend a suspect if the Police Service Animal handler reasonably believes that the individual has committed, is committing, or is threatening to commit any serious offense and if any of the following conditions exist:

(a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer, or the handler.

(b) The suspect is physically resisting or threatening to resist arrest and the use of a Police Service Animal reasonably appears to be necessary to overcome such resistance.

(c) The suspect is believed to be concealed in an area where entry by other than the Police Service Animal would pose a threat to the safety of officers or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a Police Service Animal.

Absent a reasonable belief that a suspect has committed, is committing, or is threatening to commit a serious offense, mere flight from a pursuing officer, without any of the above conditions, shall not serve as the basis for the use of a Police Service Animal to apprehend a suspect.

Use of a Police Service Animal to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Watch Commander. Absent a change in circumstances that presents an imminent threat to officers, the Police Service Animal or the public, such Police Service Animal use should be conducted on-leash or under conditions that minimize the likelihood the Police Service Animal will bite or otherwise injure the individual.

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the Police Service Animal as soon as it becomes reasonably practicable.

If the Police Service Animal has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the Police Service Animal to release the suspect.

315.6.1 PREPARATION FOR DEPLOYMENT

Prior to the use of a Police Service Animal to search for or apprehend any suspect, the Police Service Animal handler and/or the supervisor on-scene should carefully consider all pertinent information reasonably available at the time. The information should include, but is not limited to:

(a) The nature and seriousness of the suspected offense.

(b) Whether violence or weapons were used or are anticipated.

(c) The degree of resistance or threatened resistance, if any, the suspect has shown.

(d) The suspect’s known or perceived age.

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(e) The potential for injury to officers or the public caused by the suspect if the Police Service Animal is not utilized.

(f) Any potential danger to the public and/or other officers at the scene if the Police Service Animal is released.

(g) The potential for the suspect to escape or flee if the Police Service Animal is not utilized.

As circumstances permit, the Police Service Animal handler should make every reasonable effort to communicate and coordinate with other involved members to minimize the risk of unintended injury.

It is the Police Service Animal handler's responsibility to evaluate each situation and determine whether the use of a Police Service Animal is appropriate and reasonable. The Police Service Animal handler shall have the authority to decline the use of the Police Service Animal whenever he/she deems deployment is unsuitable.

A supervisor who is sufficiently apprised of the situation may prohibit deploying the Police Service Animal.

Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the Police Service Animal.

315.6.2 WARNINGS AND ANNOUNCEMENTS

Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a Police Service Animal will be used if the suspect does not surrender should be made prior to releasing a Police Service Animal. The handler should allow a reasonable time for a suspect to surrender and should quiet the Police Service Animal momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary.

If a warning is not to be given, the Police Service Animal handler, when practicable, should first advise the supervisor of his/her decision before releasing the Police Service Animal. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why.

If a suspect is actively fleeing from the police and a decision has been made to deploy the Police Service Animal to apprehend the fleeing suspect, a clearly audible warning like, "Police! Stop or I will send the Police Service Animal!" will also be given to announce the Police Service Animal will be released if the suspect does not discontinue his/her attempts to evade police.

After an apprehension or Police Service Animal related incident where these announcements are given, every effort will be conducted to canvas a neighborhood or area to contact and interview residents, or persons within the area, by audio and video recording, to determine if they heard the announcements. All interviews will be documented in a written report. Ideally, officers other than the handler should conduct and record the interviews.

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Police Service Animals (PSA)

315.6.3 REPORTING DEPLOYMENTS, BITES AND INJURIES

Whenever a Police Service Animal deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified, and the injuries documented in a Police Service Animal 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 Police Service Animal, whether on- or off-duty, shall be promptly reported to the Police Service Animal coordinator. Unintended bites or injuries caused by a Police Service Animal should be documented in an administrative report, not in a Police Service Animal 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.

Police Service Animals used by law enforcement agencies are generally exempt from impoundment and reporting requirements. However, the Police Service Animal shall be made available for examination at any reasonable time if requested by the local health department. The Police Service Animal handler shall also notify the local health department if the Police Service Animal exhibits any abnormal behavior after a bite (Health and Safety Code § 121685).

315.6.4 POLICE SERVICE ANIMAL USE REPORTS

The Police Service Animal handler is responsible for completing a Police Service Animal Use Report whenever the Police Service Animal is deployed in any manner to assist in an arrest, article search where evidence is located, or incidents with notable conclusions involving the Police Service Animal. The Police Service Animal handler will use the PackTrack App to log any Police Service Animal deployments.

(a) Date - Date of incident.

(b) Time - Time incident occurred.

(c) Report # - Report number of crime/arrest report.

(d) Police Service Animal Assisted Arrest – Indicate if the Police Service Animal was instrumental in the arrest or apprehension of a suspect(s).

(e) Any Injury – Indicate if the use of the Police Service Animal resulted in an injury to the suspect or other involved person whether intentional.

(f) Activity Section - If this was a mutual aid request, the name of the agency being assisted, and the name of the authorizing sergeant/commander will be listed. If none of the listed activities apply, the "other" box will be checked, and the appropriate description will be written.

(g) Location/Address - Where the reporting incident took place.

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(h) Announcement - Provide reason not to give verbal announcement, i.e. “suspect gave up prior to deployment,” narcotic search or article search.

(i) Witness - Identify someone who saw the deployment/incident regarding the use of the Police Service Animal.

(j) Involved Party Information - Indicate Suspect, Handler, Officer, Police Service Animal or Other involved with incident.

(k) Bite - Be as specific as possible on location(s) where the injury occurred, and describe in further detail within the narrative section or supplemental report.

(l) Other Injury - Document if another injury occurred other than a bite as a result of the Police Service Animal deployment. For example, describe if the suspect fell and hit his/her head causing an abrasion.

(m) Photos - Indicate if photographs were taken.

1. Photos will be taken of all injuries whether inflicted by the Police Service Animal.
2. Take photos after the injury/s is cleaned.
3. Photos should be taken of the involved party’s body (full body) showing no other injuries except the ones listed.

(n) Involved Party Name - Record name, address and DOB of the involved party.

(o) Treated – Indicate if the involved party was treated by a doctor or paramedic. Include the name of the hospital or emergency center where the involved party was treated if applicable. If an injury occurs, the suspect should always be taken to a hospital for medical clearance. Get a doctor to identify what caused the injury and list it on the doctor’s report, especially if the suspect claims a Police Service Animal bite and the doctor believes the injury was due to another cause.

(p) Charge(s) - List all criminal violations that the suspect was booked for.

(q) Supervisor Notified - Name of the supervisor notified about the incident. This supervisor is usually the watch commander or the supervisor doing the Use of Force report.

(r) Description of Events - Write a detailed narrative of the incident.

(s) Report Approval/Records Submission - The Police Service Animal handler completing the report will be responsible for sending the original report to the Police Service Animal Supervisor (or a designee if the Police Service Animal Supervisor is not available within a reasonable time, such as vacation or extended days off). After reviewing and approving the report, the Police Service Animal Supervisor will be responsible for sending the report to Records with copies forwarded/submitted to the Police Service Animal file, Police Commander, and Immediate Patrol Supervisor.

315.7 NON-APPREHENSION GUIDELINES

Properly trained Police Service Animals may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The Police Service Animal handler is responsible for determining the Police Service Animal's suitability for

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such assignments based on the conditions and the particular abilities of the Police Service Animal. When the Police Service Animal is deployed in a search or other non-apprehension operation, the following guidelines apply:

(a) Absent a change in circumstances that presents an imminent threat to officers, the Police Service Animal, or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the Police Service Animal will bite or otherwise injure the individual, if located.

(b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the Police Service Animal.

(c) Throughout the deployment, the handler should periodically give verbal assurances that the Police Service Animal will not bite or hurt the individual and encourage the individual to make him/herself known.

(d) Once the individual has been located, the handler should place the Police Service Animal in a down-stay or otherwise secure it as soon as reasonably practicable.

315.7.1 ARTICLE DETECTION

A Police Service Animal trained to find objects or property related to a person or crime may be used to locate or identify articles. A Police Service Animal search should be conducted in a manner that minimizes the likelihood of unintended bites or injuries.

315.7.2 NARCOTICS DETECTION

A Police Service Animal trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

(a) The search of vehicles, buildings, bags, and other articles.

(b) Assisting in the search for narcotics during a search warrant service.

(c) Obtaining a search warrant by using the narcotics-detection trained Police Service Animal in support of probable cause.

A narcotics-detection trained Police Service Animal will not be used to search a person for narcotics unless the Police Service Animal is trained to passively indicate the presence of narcotics.

315.7.3 BOMB / EXPLOSIVE DETECTION

Because of the high risk of danger to the public and officers when a bomb or other explosive device is suspected, the use of a Police Service Animal team trained in explosive detection may be considered. When available, an explosive-detection Police Service Animal team may be used in accordance with current law and under certain circumstances, including:

(a) Assisting in the search of a building, structure, area, vehicle, or article where an actual or suspected explosive device has been reported or located.

(b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).

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(c) Preventive searches at special events, VIP visits, official buildings, and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.

(d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

At no time will an explosive-detection trained Police Service Animal be used to render a suspected device safe or clear.

315.8 HANDLER SELECTION

The minimum qualifications for the assignment of Police Service Animal handler include:

(a) An officer who is currently off probation.

(b) Residing in an adequately fenced, single-family residence (minimum 5-foot-high fence with locking gates).

(c) A garage that can be secured and can accommodate a Police Service Animal vehicle.

(d) Living within 60 minutes travel time from the Atherton Town limits.

(e) Agreeing to be assigned to the position for a minimum of three years.

315.9 HANDLER RESPONSIBILITIES

The Police Service Animal handler shall ultimately be responsible for the health and welfare of the Police Service Animal and shall ensure that the Police Service Animal receives proper nutrition, grooming, training, medical care, affection, and living conditions.

The Police Service Animal handler will be responsible for the following:

(a) Except as required during appropriate deployment, the handler shall not expose the Police Service Animal 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) Handlers shall permit the Police Service Animal coordinator to conduct spontaneous on-site inspections of affected areas of their homes, as well as their Police Service Animal vehicles, to verify that conditions and equipment conform to this policy.

(d) Any changes in the living status of the handler that may affect the lodging or environment of the Police Service Animal shall be reported to the Police Service Animal coordinator as soon as possible.

(e) When off-duty, the Police Service Animal shall be in a kennel provided by the Town at the home of the handler. When a Police Service Animal is kenneled at the handler’s home, the gate shall be secured with a lock. When off-duty, the Police Service Animal may be let out of the kennel while under the direct control of the handler.

(f) The Police Service Animal 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.

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(g) Under no circumstances will the Police Service Animal be lodged at another location unless approved by the Police Service Animal coordinator or Watch Commander.

(h) When off-duty, the handler shall not involve the Police Service Animal in any law enforcement activity or official conduct unless approved in advance by the Police Service Animal coordinator or Watch Commander.

(i) Whenever a Police Service Animal handler is off duty for an extended number of days, it may be necessary to temporarily relocate the Police Service Animal. In those situations, the handler shall give reasonable notice to the Police Service Animal coordinator so that appropriate arrangements can be made.

315.10 HANDLER COMPENSATION

The Police Service Animal handler shall be available for call-out under conditions specified by the Police Service Animal coordinator.

The Police Service Animal handler shall be compensated for time spent in the care, feeding, grooming, and other needs of the Police Service Animal in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement (29 USC § 207).

315.11 COMMON HOUSEHOLD AND GARDEN POISONS

See attachment: Animal Poisons 1.jpg

315.12 POLICE SERVICE ANIMAL INJURY AND MEDICAL CARE

In the event that a Police Service Animal is injured, or there is an indication that the Police Service Animal is not in good physical condition, the injury or condition will be reported to the Police Service Animal coordinator or Watch Commander as soon as practicable and appropriately documented.

All medical attention shall be rendered by the designated Police Service Animal 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.

315.13 TRAINING

Before assignment in the field, each Police Service Animal team shall be trained and certified to meet current POST guidelines or other recognized and approved certification standards. Cross-trained Police Service Animal teams, or those Police Service Animal teams trained exclusively for the detection of narcotics and/or explosives, also shall be trained and certified by the California Narcotic Canine Association (CNCA) or other recognized and approved certification standards established for their skills.

Each Police Service Animal team (handler and Police Service Animal) shall complete a minimum of sixteen (16) hours of training per month to maintain and improve the proficiency level of the team. This standard was developed and is currently endorsed by the three largest United States Police Service Animal associations: the USPCA (United States Police Canine Association), NAPWDA (North American Police Work Dog Association), and NPCA (National Police Canine Association). The designated times to accrue and maintain these hours will occur at monthly

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trainings. Additional time can be accumulated through daily training and other training as scheduled.

Training is coordinated and supervised by the Police Service Animal Supervisor. If the Police Service Animal Supervisor is not present, handlers will share the responsibility coordinating monthly training.

- The primary purpose for “monthly training” is to address training needs and improve the performance of the Police Service Animal teams.
- All handlers are required to attend monthly training.
- On-duty handlers will be available for callback during training in the event a Police Service Animal is needed.

315.13.1 CONTINUED TRAINING

The yearly certification is coordinated by the vendor and supervised by the Police Service Animal Supervisor. A qualified Police Service Animal certifier will evaluate the performance of the individual teams. The Police Service Animal Supervisor (or designee) will record the certification and file the forms upon conclusion of the certification in each handler’s file. If the Police Service Animal Supervisor is not present, the officer(s) assigned to record the certification will forward the certification to the Police Service Animal Supervisor. Additional training considerations are as follows:

(a) Police Service Animal teams should receive training as defined in the current contract with the Atherton Police DepartmentPolice Service Animal training provider.

(b) Police Service Animal handlers are encouraged to engage in additional training with approval of the Police Service Animal 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.

315.13.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any Police Service Animal 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 Police Service Animal handler shall be temporarily reassigned to regular patrol duties.

315.13.3 TRAINING RECORDS

At the end of each month, each handler will print their training report from the PackTrack App and provide it to the Police Service Animal Supervisor by the seventh day of the month. The Police Service Animal Supervisor will review the monthly training reports printed from the PackTrack App and place the completed forms into each handler’s file.

315.13.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of Police Service Animals. Officers possessing, using or transporting controlled substances or explosives for Police Service

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Animal training purposes must comply with federal and state requirements regarding the same. Alternatively, the Atherton Police Department may work with outside trainers with the applicable licenses or permits.

315.13.5 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 Police Service Animal training in compliance with state and federal laws (Health & Safety Code § 11367.5; 21 USC § 823(f)).

The Chief of Police or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Atherton Police Department to be possessed by the member or a narcotics-detection Police Service Animal trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief of Police or the authorized designee may request narcotics training aids from the Drug Enforcement Administration (DEA).

These procedures are not required if the Police Service Animal handler uses commercially available synthetic substances that are not controlled narcotics.

315.13.6 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 Police Service Animal'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 Police Service Animal handler or trainer.

(b) The weight and test results shall be recorded and maintained by this department.

(c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.

(d) All controlled substance training samples will be inspected, weighed, and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the Police Service Animal 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 Police Service Animal handler’s assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.

(f) The Police Service Animal 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 Section or to the dispensing agency.

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(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.

315.13.7 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 Police Service Animal teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids by Police Service Animal 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 Police Service Animal coordinator shall be responsible to verify the explosive training aids on hand against the inventory ledger once each quarter.

(d) Only members of the Police Service Animal 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 Police Service Animal 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).

315.14 SWAT

If a Police Service Animal team is assigned to work with SWAT, each Police Service Animal handler (without a Police Service Animal) will successfully complete a SWAT orientation training program that emphasizes basic SWAT procedures, practices and equipment. Ideally, this training will be conducted in-house by members of the department's SWAT team.

Each Police Service Animal team (handler and Police Service Animal) will successfully complete a SWAT orientation training program that emphasizes basic SWAT procedures, practices and equipment for SWAT integration, and provides hands-on socialization, familiarization and deployment exercises with SWAT team members that should ideally include the core competencies listed within this section.

Each Police Service Animal team will participate in quarterly scenario-based training with SWAT for a minimum of 16 hours annually.

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Police Service Animals (PSA)

315.15 HOLD HARMLESS

Whenever private property is to be utilized for certification or training, and the owner requests a signed waiver from our department, a “Hold Harmless” letter will be obtained before any training or certification will take place.

The handler will fill out the hold harmless agreement with the necessary information. The Police Service Animal Supervisor or his designee will sign the agreement. The owner or authorized agent will sign the agreement.

The original agreement will be given to the owner/agent and a copy of the signed agreement will be maintained in the Police Service Animal file. If a copy cannot be made at the time of signing, the handler will take the original and make a copy and return the original to the owner/agent.

315.16 RETIRED PSA / PURCHASE OF PSA

When the Police Service Animal is no longer able to perform the functions of a Police Service Animal, the handler may elect to purchase the Police Service Animal at a sum agreeable to both the City and handler upon approval of the Police Service Animal Supervisor. The “Retired Police Service Animal Agreement” will be completed and will serve as a purchase/hold harmless agreement.

If a handler leaves or prepares to leave the Police Service Animal Unit in good standing, the handler may request to purchase the Police Service Animal that he/she was assigned. Upon receiving the request, an evaluation of the Police Service Animal and any mitigating circumstances will be conducted by the Police Service Animal Supervisor. The ability of the Police Service Animal to continue performing its function for a suitable time period with another handler will be a primary consideration. The Police Service Animal Supervisor may request the assistance of a Police Service Animal trainer, vendor, veterinarian, member of the Atherton Police Police Service Animal Unit, or other knowledgeable persons to assist with their evaluation of the circumstances and determine the Police Service Animal's health, longevity and ability to continue fully working for a reasonable amount of time.

If they determine it is reasonable and cost effective to allow the handler to purchase the Police Service Animal, a “letter of agreement” to authorize this purchase will be completed and serve as a purchase/hold harmless agreement if the handler agrees to the purchase.

315.17 UNIFORMS

The uniforms listed below are approved for use by Police Service Animal handlers while performing their patrol Police Service Animal duties, training, or assisting SWAT/SEU with an operation. If assisting SWAT with an operation, the sergeant in charge of the operation will specify the uniform to be worn.

Blue Utility Patrol Uniform:

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- Short or long sleeve polyester/cotton blend shirt, blue in color with standard police patches. To be worn with issued embroidered nameplate, badge, and open collar.
- Black, blue, or white crew neck t-shirt.
- Blue polyester/cotton blend utility trousers with two cargo pockets.
- Black boots, leather or nylon-leather combination.
- Gun belt will comply with the standards established for uniform patrol, unless deployed in a tactical situation.
- Headgear will comply with standards established for uniform patrol.

SWAT Call-out:

- All patches and tags will be of subdued color same as SWAT.
- Issued "Police Service Animal" shoulder patches and cloth “POLICE” tag on left chest.
- Black boots, leather or nylon-leather combination.
- Black leather or nylon belt.
- Headgear consists of a black Kevlar ballistic helmet.

Class A and B Uniforms:

- These uniforms will be maintained by Police Service Animal handlers and worn when directed.

Training Uniform:

- Approved Police Service Animal Unit crew neck t-shirt or sweatshirt.
- Utility trousers with two cargo pockets.
- Boots (black or brown), leather or nylon-leather combination.
- The Police Service Animal Supervisor may make exceptions for the training uniform.

Other:

- Black polo shirts with the Atherton Police Department badge embroidered on the left front chest, the handler’s name on the right front chest, and a Police Service Animal Unit logo on the right sleeve may be allowed for certain demonstrations and/or training events with approval from the Police Service Animal Supervisor.

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Police Service Animals (PSA)

315.18 SHIFT SELECTION

Patrol shifts will be selected based primarily on seniority within the department and will coincide with patrol shifts. Two Police Service Animal units shall not sign up for shift rotations on the same team.

315.19 FIREARMS

Each Police Service Animal should be introduced and acclimated to the sounds of a shotgun, pistol and patrol rifle at least once annually, with minimal rounds being fired.

315.20 AUDIT OF THE POLICE SERVICE ANIMAL PROGRAM

An annual audit of the Police Service Animal program will be conducted by the Commander or designee.

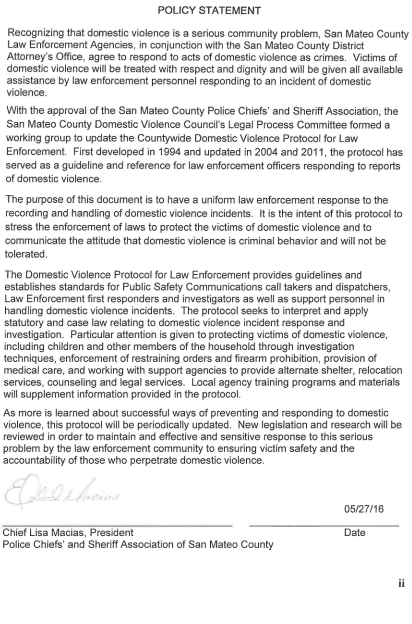
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Domestic Violence

317.1 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.

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POLICY STATEMENT

Recognizing that domestic violence is a serious community problem, San Mateo County Law Enforcement Agencies, in conjunction with the San Mateo County District Attorney's Office, agree to respond to acts of domestic violence as crimes. Victims of domestic violence will be treated with respect and dignity and will be given all available assistance by law enforcement personnel responding to an incident of domestic violence.

With the approval of the San Mateo County Police Chiefs' and Sheriff Association, the San Mateo County Domestic Violence Council's Legal Process Committee formed a working group to update the Countywide Domestic Violence Protocol for Law Enforcement. First developed in 1994 and updated in 2004 and 2011, the protocol has served as a guideline and reference for law enforcement officers responding to reports of domestic violence.

The purpose of this document is to have a uniform law enforcement response to the recording and handling of domestic violence incidents. It is the intent of this protocol to stress the enforcement of laws to protect the victims of domestic violence and to communicate the attitude that domestic violence is criminal behavior and will not be tolerated.

The Domestic Violence Protocol for Law Enforcement provides guidelines and establishes standards for Public Safety Communications call takers and dispatchers, Law Enforcement first responders and investigators as well as support personnel in handling domestic violence incidents. The protocol seeks to interpret and apply statutory and case law relating to domestic violence incident response and investigation. Particular attention is given to protecting victims of domestic violence, including children and other members of the household through investigation techniques, enforcement of restraining orders and firearm prohibition, provision of medical care, and working with support agencies to provide alternate shelter, relocation services, counseling and legal services. Local agency training programs and materials will supplement information provided in the protocol.

As more is learned about successful ways of preventing and responding to domestic violence, this protocol will be periodically updated. New legislation and research will be reviewed in order to maintain and effective and sensitive response to this serious problem by the law enforcement community to ensuring victim safety and the accountability of those who perpetrate domestic violence.

05/27/16

Chief Lisa Macias, President
Police Chiefs' and Sheriff Association of San Mateo County

Date

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ACKNOWLEGEMENTS

The San Mateo County Police Chiefs and Sheriff gratefully acknowledge the commitment and research invested in updating this very important protocol designed to enhance victim safety. The information contained herein was produced as a collaborative effort by the San Mateo County Domestic Violence Council's, Legal Process Committee and the Coordinated Community Response Project Task Force. A very special thanks is extended to the law firm of DLA Piper LLP in Palo Alto in grateful appreciation for providing their pro bono technical services to reformat this document for distribution.

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DEFINITIONS

A. "**Abuse**" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself or another.

B. "**Cohabitant**" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship (includes same sex relationships). Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

C. "**Cross-Reporting**" refers to mandated reporting of suspected child abuse as required under 11165, 11166 and 11172 PC and mandated reporting of suspected abuse of elders and dependent adults as required under 15610, 15630 and 15640 WI.

D. "**Dating Relationship**" means frequent, intimate associations primarily characterized by the expectation of affection or sexual involvement independent of financial considerations.

E. "**Deadly Weapon**" means any weapon, the possession or concealed carrying of which is prohibited by Section 16590 PC (16430 PC).

F. "**Domestic Violence**" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, a person with whom the suspect has had a child or is having or has had a dating or engagement relationship. Same sex relationships are included.

G. "**Domestic Violence Order**" is a type of restraining order which is issued pursuant to the Domestic Violence Prevention Act, (Family Code Sections 6200-6389), or the Uniform Parentage Act (Family Code Sections 7710 and 7720), or in connection with a dissolution, legal separation or annulment (Family Code Sections 2045, 2047, and 2049), or in cases of elder or dependent adult abuse (Welfare and Institutions Code Section 15657.03). This includes all local Domestic Violence related orders from other states, counties, tribal courts and juvenile courts.

1. "**Emergency Protective Order**" **(EPO)** is a type of restraining order sought by a law enforcement officer and issued by a Judge or Commissioner at any time, whether or not Court is in session.

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It is intended to function as a temporary restraining order if a person is in immediate and present danger of domestic violence, elder or dependent adult abuse, child abuse, or where a child is in immediate and present danger of being abducted by a parent or relative or where stalking exists. It can also function as an order (when no custody order is in existence) determining temporary care and control of minor children of the above-described endangered person. The issuance of an EPO is not precluded by an arrest.

2. "**Temporary Restraining Order**" **(TRO)** is a type of restraining order, which requires a person to refrain from doing a particular act or acts. It is issued by the Family Court, with or without notice to or the presence of the person who is to be restrained. A TRO will remain in effect until a formal court hearing can be held or it expires.

3. "**Restraining Order After Hearing**" **(ROAH)** is an order issued after a formal judicial hearing set when the TRO is issued, which requires a person to refrain from doing a particular act or acts. It is issued by Family Court, with notice, to the person who is to be restrained. A restraining order will remain in effect for a set period of time, which is stated on the face of the order. If no time period is stated on the face of the order, the effective time period is 3 years however it may be renewed.

4. "**Criminal Protective Order**" **(CPO/136.2 Order)** is issued by the Criminal Court pursuant to PC 136.2 and can remain in effect as long as the defendant is under the court's jurisdiction, including any sentence or probationary period. In stalking (646.9 PC) cases, the court may issue an order for a term of up to 10 years. Criminal Protective Orders may include non-harassment and weapon surrender provisions. A violation of this order is enforceable under PC 166[c], 273.6 and 836[c][1] and may or may not include a no-contact or stay away provision.

5. "**Stay Away Order**" is a Restraining Order provision which may be included in a criminal, juvenile delinquency or civil case involving domestic violence, where there is a likelihood of harassment or violence toward the victim by the perpetrator. A Stay Away Order typically orders a person to stay away from the victim and/or specified locations. Criminal Protective Orders issued pursuant to Penal Code Section 136.2 are sometimes referred to as Stay Away Orders. Stay Away Orders may also be issued pursuant to the Civil Harassment Prevention Act (Code of Civil Procedure Section 527.8), Workplace Violence Safety Act (Code of Civil Procedure Section 527.8), Uniform Parentage Act (Family Code Sections 7710 and 7720, Domestic Violence Protection Act 6200 – 6389 Family Code), or in connection with a dissolution, legal separation, or annulment (Family Code Sections 2045, 2047, and 2049).

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H. "**Dominant Aggressor**" means the person determined to be the most significant, rather than the first aggressor. In identifying the dominant aggressor, the officer shall consider the intent of the law to protect victims of domestic violence from continuing abuse, the threats creating fear of physical injury, the history of domestic violence between the persons involved, and whether either person acted in self-defense.

I. "**Firearm**" is any device designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion (16520PC).

J. "**Officer**" is defined as any law enforcement officer as defined by Penal Code Sections 830.1-830.32.

K. "**Pro-Arrest Policy**" refers to a philosophical position in which physical arrest shall be made in every situation where an arrest is legally permissible; absent exigent circumstances.

L. "**Stalking**" means maliciously and repeatedly following or maliciously harassing another person and making a credible threat with the intent to place that person in reasonable fear for his or her own safety, or the safety of his or her immediate family.

M. "**Traumatic Condition**" is defined as a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force.

N. "**Victim**" means a person who is a victim of domestic violence.

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COMMON CHARGES

A situation involving domestic violence may result in a violation of one or more of the following sections of the Penal Code: (This list is not all inclusive)

136.1 - Intimidating or dissuading a witness
148 - Resisting arrest
166 - Violation of a court order
187 - Murder
203 - Mayhem
207 - Kidnapping
236/237 - False imprisonment
240 - Assault
243 (a) - Battery
243 (d) - Battery with great bodily injury
243 (e) - Battery on a current or former spouse, cohabitant, current or previous dating or engagement relationship, parent of suspect's child
245 - Assault with a deadly weapon or by means of force likely to cause great bodily injury
246 - Shooting at an inhabited dwelling
261.5 - Unlawful sexual intercourse
262 - Spousal rape
273.5 - Infliction of corporal injury on spouse, former spouse, cohabitant, former cohabitant or parent of suspect's child.
273.6 - Violation of a protective order
273a - Willful harm, injury or endangerment to a child
273d - Corporal punishment or injury of a child
368 - Elder and dependent adult abuse
417 - Brandishing a weapon
418 - Forcible entry into the home of another
422 - Criminal threats
459 - Burglary
591 - Malicious destruction of a telephone line
594 - Vandalism
597a - Cruelty to Animals
602.5(a)(b) - Trespass / Aggravated Trespass
603 - Forcible entry with damage to property
646.9 - Stalking
647 (f) - Public drunkenness
653m (c) - Annoying telephone calls - (1) violating court order; or (2) by spouse, cohabitant or parent of suspect's child or a past or present dating relationship
16590 - Generally Prohibited Weapon Directory to charging sections for possession
29800 - Possession of firearm w/ felony convictions
29805 - Possession of firearm w/certain prior misdemeanor convictions

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25400 - Possession of a concealed firearm
18250 - Confiscation of firearms (Authority for seizure)
25850 (a) - Possession of a loaded firearm

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911 CALL-TAKER / DISPATCHER RESPONSE

A. The dispatcher or call-taker who receives a domestic violence incident, including violations of domestic violence protective orders and/or emergency protective orders, shall dispatch officers to every reported incident. The dispatcher should, when warranted, give a domestic violence incident call the same priority as any other life threatening call and should, whenever possible, dispatch at least two officers to the scene.

B. No dispatcher or 911 call-taker, in speaking with a victim of domestic violence, will inquire as to the victim's desire to "prosecute," or "press charges." Any comment or statement which seeks to place the responsibility for enforcement action with the victim is inappropriate.

C. During the initial call for assistance, the call-taker should obtain the following information:

1. Location of the incident
2. Nature and severity of the incident
3. Time element of incident occurrence
4. Need for medical attention
5. Is the victim in a safe location
6. Is suspect still on scene/whereabouts known if not?
7. Names, description, relationships of involved subjects
8. Use of drugs/alcohol of involved subjects
9. Are children present? How many? Names and ages
10. Use or threat of use of weapons and current location of weapons
11. Is there a restraining order or emergency protective order in force?
12. Is the suspect on probation or parole?
13. Location, involvement, phone number and name of reporting party
14. Prior history of abuse

Dispatchers should be aware that tape recorded calls with the reporting party of a domestic violence incident will likely be requested as evidence in court proceedings.

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D. The safety of domestic violence victims, whether the threat of violence is immediate or remote, should be the primary concern of 911 call-takers. The 911 call-taker should advise the victim to ensure his/her safety. For example, a victim could wait for officers at a neighbor's house and/or remain on the 911 line.

E. **Mandated Medical Reporting** - Upon receipt of a report from a Medical Provider where domestic violence is alleged, the agency of jurisdiction should respond unless circumstances such as distance or lack of personnel prohibit such response. Health Care Providers in San Mateo County have been informed of the option to contact San Mateo County Public Safety Communications (at 650-363-4911) for all mandated cross reports of domestic violence. Any such call received by San Mateo County Communications shall be transferred by the call-taker to the appropriate agency after determining the jurisdiction of the domestic violence incident.

The dispatcher with the agency of jurisdiction shall inquire of the caller information pertinent to the safety of the victim. Such inquiries should include but not be limited to:

1. Is the victim still at the medical facility?
2. Is the victim aware the crime is being cross-reported?
3. Is the suspect present at the medical facility?
4. Length of time since incident?

Such information shall be relayed to the responding officer or field supervisor. Such information should be considered in determining the appropriate contact with the victim. Primary concern shall be given to the immediate and future safety of the victim. The responding agency shall make a police report and if not the agency of jurisdiction, shall then forward it to the agency where the offense occurred.

F. **Domestic Violence Release Notifications** - When a suspect is taken into custody for a domestic violence related offense, the victim is informed of her/his right to be notified upon the release of the suspect from custody. If the victim chooses to participate in the release notification program, the "Violent Crime Victim Notification Request" form is utilized. The form is then submitted to staff at the San Mateo County Jail at the time of booking.

Every attempt will be made by the jail staff to contact the victim prior to the defendants release from custody on an ongoing 24 hour basis for up to 72 hours of the release. Telephone notification will be initiated by the Sheriff's Release on Own Recognizance (ROR) Unit located in the jail. It is not always possible to complete the notification prior to the defendant's release from custody. The (ROR) Legal Office Specialist (LOS) will also contact the law enforcement agency of jurisdiction where the victim resides (as listed on the Violent Crime

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Victim Notification Request form). If the victim has not been contacted by the jail LOS, an officer should then be dispatched to attempt contact with the victim and personally notify him/her of the pending or completed release of the defendant. If the officer is unable to contact the victim at home, a note should be left. Upon notification to the victim, the law enforcement agency should inform the Sheriff's Office ROR Unit of the results of their contact.

In addition, in 2015, the San Mateo Co. Sheriff's Office began participation in the California Victim Notification Service "VINE" (Victim Information and Notification Everyday). This service is provided by the California State Sheriff's Association and the California Department of Corrections and Rehabilitation and may be found at www.vinelink.com and via telephone at 877-411-5588. A crime victim may elect to subscribe to this free service which will track the custody status of an inmate and notify the victim of the offenders release via phone call, text message or e-mail. Pamphlets have been distributed to San Mateo Co. law enforcement agencies so they may be made available to crime victims.

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PATROL OFFICER RESPONSE/INVESTIGATION

A. **ENFORCEMENT OF LAWS IN DOMESTIC VIOLENCE INCIDENTS**

Felony

1. An arrest shall be made in the event that there is probable cause to believe that a felony has occurred. All suspects arrested should be booked into the County Jail or Juvenile Hall. A pro-arrest policy should be implemented by all agencies.

2. If an officer has probable cause to believe that a felony has occurred, an arrest shall be made irrespective of whether the officer believes the offense may ultimately be prosecuted as a misdemeanor.

Misdemeanor

1. The suspect shall be arrested in the event that a misdemeanor domestic violence incident occurs in the officer's presence. Such situations include, but are not limited to, an officer who witnesses an act of domestic violence or a violation of a verifiable restraining order.

2. Pursuant to 836(d) PC, when a misdemeanor domestic violence assault or battery has been committed outside the officer's presence, and the victim is the suspect's spouse, former spouse, cohabitant, former cohabitant, fiancée, parent of his or her child, or a person with whom the suspect has had or is having an engagement relationship or a current or prior dating relationship, a peace officer may arrest the suspect without the need of a private person's arrest.

   836(d) PC makes it possible for officers to arrest when the crime does not take place in their presence and can occur where both of the following circumstances apply.

   a. The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

   b. The peace officer makes the arrest as soon as he/she finds there is probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

3. If a victim complains only of a prior unreported incident and has no complaint of pain or physical injury at the time of the current report, the officer shall make a good faith effort to inform the complainant of his/her right to make a private person's arrest (arrest must fall within the statute of

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limitations). If the complainant chooses not to exercise that right, the officer shall submit a report to the District Attorney or Juvenile Probation for review. If the person chooses to exercise that right, the officer shall make the arrest.

4. Pursuant to 836(c) PC, when a misdemeanor violation of a domestic violence or stalking protective or restraining order has been committed outside the officer's presence the officer shall make a lawful arrest of that person without a warrant if the officer has probable cause to believe that the person against whom the order is issued (1) has notice of the order and (2) has violated any term(s) of the order.

B. **HANDLING OF THE INCIDENT**

1. Pursuant to Penal Code section 13700 et seq., an officer responding to an incident of domestic violence shall prepare a Domestic Violence Incident Report as defined in PC section 13730(c) irrespective of the wishes of the victim or the presence or absence of the suspect or the likelihood of prosecution.

2. The following factors are not to influence the officer's decision to arrest in domestic violence incidents except as they relate to the elements of the crime:

   a. The relationship or marital status of the suspect and the victim, i.e., not married, separated, or pending divorce;

   b. The fact that the victim and suspect are of the same gender;

   c. Whether or not the suspect lives on the premises with the complainant;

   d. The existence or lack of a temporary or other restraining order;

   e. The potential financial consequence of arrest;

   f. The complainant's history or prior complaints;

   g. Verbal assurances that violence will cease;

   h. The complainant's emotional state;

   i. Injuries are not visible;

   j. The location of the incident, i.e., public or private;

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k. Speculation that the complainant may not follow through with the criminal justice process or that the arrest may not lead to a conviction;

l. The suspect and/or the victim is a juvenile.

3. Once a suspect is arrested on a misdemeanor offense, he/she should be booked into the County Jail or Juvenile Hall unless the officer can identify a strong likelihood that the offense will not continue once the officer leaves the scene and that there has been no prior history of domestic violence.

Any one of the following may support the likelihood that an offense will continue:

a. Whether the suspect has a prior history of arrests or citations involving domestic violence;

b. Whether the suspect has previously violated, or is currently violating a valid criminal or civil court protective order;

c. Whether the suspect has a prior history of other assaultive behavior including animal abuse;

d. Statements taken from the victim that the suspect has a history of physical abuse on human beings or on animals;

e. Statements taken from the victim expressing fear of retaliation or further violence should the suspect be released;

f. Information about the suspect's alcohol or drug abuse, access to weapons, suicide threats or attempts, threats of kidnapping family members, or history of mental illness;

g. Information that the victim is/has been attempting to end the relationship and the suspect is refusing to abide by the victim's wishes.

h. An officer shall make no statements, which would tend to discourage a victim from reporting an act of domestic violence or requesting a private person's arrest.

C. **INVESTIGATION OF DOMESTIC VIOLENCE CASES**

1. Officers arriving at a domestic violence scene should conduct a thorough investigation and shall submit reports of all incidents of violence and all crimes related to domestic violence. Related crimes include but are not limited to sexual assault, child abuse or neglect, elder abuse and animal abuse. If the incident occurred in another jurisdiction, the officer should

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contact that jurisdiction to determine which agency will investigate the incident.

2. The following steps should be included in an officer's investigation and subsequent report:

a. Arrival at scene

i. Determine location and condition of victim, suspect, and children. If children are not immediately visible, observe for physical evidence that may indicate the presence of children. Ask parties about children, their whereabouts, and whether children were present and intentionally or accidentally injured in the incident.

ii. Determine if any weapon is involved or in the home. Confiscate and collect as evidence any weapons or firearms used in the incident. If the incident involves any threat to human life or physical assault, officers shall take temporary custody of any firearm or deadly weapon in plain sight or pursuant to a consensual search. If unable to book the weapon (other than firearms) due to size or other extenuating circumstances, photograph the weapon (per PC 18250).

iii. Provide appropriate level of aid to injured parties.

iv. Separate suspect, victim, and witnesses. (Victim should be out of suspect's view.)

b. Preliminary Investigation

i. INTERVIEW EVERYONE SEPARATELY – victim, suspect, children, and other witnesses. If the victim speaks a language other than English, call for another officer conversant in that language or arrange for other translation services. Document the names and personal information of all witnesses including their relationship to one another. Document the names of all translators. Avoid using other witnesses and children as translators.

ii. CHILDREN – If and when children are located on the scene, determine whether they are physically hurt or emotionally distraught by both visually observing and by asking the children. Make every attempt to comfort the children. If children have been injured, determine whether children need medical treatment and arrange for it. Engage the non-offending parent/guardian in that process if possible.

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Obtain names and ages of children and schools they attend who were present and/or who reside in the home at the time the offense occurred. Include information on their whereabouts after the incident in order to facilitate follow-up contact. If the crime scene is a location other than the home, obtain names and ages of the children who reside with either or both of the parties. Recognizing that there is often a co-occurrence of domestic violence and child abuse, officers should investigate the possibility of occurrences of child abuse occurring in the past or present.

If any of the following criteria are met, a mandatory referral to CPS shall be made (as required under 11165, 11166 and 11172(a) PC):

- The domestic violence episode causes physical injury to the child.
- The domestic violence episode creates serious risk of physical injury to the child.
- The domestic violence episode causes serious emotional damage to the child with immediate manifestation.
- The domestic violence episode involves an expressed or implied threat to injure/kill/abduct the child of either of the parties, whether the child was present or not.

iii. Ask victim and suspect if s/he has any pain even if there are no visible injuries. Determine if there are indications of strangulation. Ask the victim if she/he has been forced to have sex against her/his will. Where possible, avoid interviewing parties in the presence of children so that adults don't withhold information that they fear will be detrimental to children, so that children won't hear potentially traumatizing information, and so that children who may be witnesses won't be influenced by other parties' accounts.

iv. If children make spontaneous statements about the incident or statements about their mental, emotional or physical condition, document them, in quotes. If possible, write exactly what the child says and include circumstances of statements. When talking with children at the scene of an incident, consider:

- Whether there is potential harm to the children from someone in the home and if an officer talks with them

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- The age and developmental level of the children
- The emotional state of the children
- Whether the children are expressing an interest in speaking with an officer
- The non-offending parent/guardian's preferences as to whether and how to talk with the children

Generally, speak with children outside the presence of the parent/guardian (and other parties), or in a manner that minimizes influence of the parent/guardian over conversations between officers and children. There may be occasions to talk with a child in the presence of a non-offending parent/guardian to minimize the impact on the children (e.g., the age, developmental level, and/or emotional state of a child.

v. Note with specific detail and vividly describe, the victim's, suspect's, and child's condition, emotional state and demeanor (e.g. excited, screaming, crying visibly upset, shaking, vomiting, silent, withdrawn, appearance of being shut down, etc.)

- Document torn clothing.
- Document smeared make-up, disheveled appearance, etc.
- Investigate any evidence of injury.
- Document if victim is pregnant.

vi. Observe and describe any disarray in house.

vii. Document suspect's and victim's symptoms of use/influence of alcohol or other drugs.

viii. Document relative size (height & weight) of victim and suspect.

1. Overall, encourage risk-focused dialogue with the victim that will help zero in on the essentials of the case, quickly assess for urgency, and determine who is in danger from whom and in what ways. Ask open-ended questions to help get an early and accurate picture of the nature of risk and danger

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- Do you think he/she will seriously injure or kill you or your children?
- Does he/she intimidate, threaten, or assault you? How frequently? Is it changing? Getting worse? Better?
- Can you describe the time you were most frightened or injured by him/her?

2. Use follow-up questions to get at more specific and relevant detail, including the extent to which a victim has been threatened for seeking help.

ix. In apparent "mutual combat" situations, try to determine who was the dominant aggressor (dual arrests shall be discouraged but not prohibited per Penal Code Section 13701):

- Was one party in actual fear of the other?
- Did one party escalate the level of violence, i.e.; did one party react to a slap by beating the other party? (Distinguish between self-defense and retaliation).
- Was one party physically larger and stronger than the other?
- Was there a history of violence by one of the parties against the other? Against other people?
- Was one party usually the aggressor?
- Did any injuries appear to be defense wounds?

3. Court Orders

a. Restraining/Protective Orders

Check for the existence of any restraining and/or protective orders against the suspect. If the victim has such an order against the suspect, obtain a copy of the order and valid proof of service (proof of service is not necessary if the suspect was in court when the order was issued). If no copy is available, contact the Department of Justice California Restraining and Protective Order System (CARPOS) via CLETS to verify the existence of the order (Family Code Section 6383(d)). If there is no order, inform victim how to get an order. Officers should be aware that the most recently issued criminal court order takes precedence over previous criminal court

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orders and normally over civil orders. However, most criminal court orders will contain a provision that all juvenile and family court orders are to be followed.

b. Emergency Protective Orders

i. When investigating an allegation of a recent incident of abuse or threat of abuse, or stalking, and the officer can assert reasonable grounds to believe that a victim is in immediate and present danger of domestic violence, child abuse by a family or household member, or elder abuse, or a child is in immediate and present danger of being abducted by a parent or relative, the police officer shall advise the victim of the availability of an Emergency Protective Order (EPO) and ask if one is desired. (This should be done when the victim is separated from the suspect). If so desired, prepare the form before calling the on-duty judge via County Communications. An EPO should be sought if circumstances warrant whether the suspect is absent or present and whether or not the suspect is arrested. Upon issuance of the EPO by the judge, the suspect should be served by the officer at the scene and a copy should be filed with the Clerk of the San Mateo County Superior Court via the court officer the following business day.

If an EPO is not desired by the victim but the officer has reasonable concern for the victim's safety, an EPO may be sought absent the victim's desire for one. EPOs should be sought if circumstances warrant, whether during normal business hours of after hours. Issuance of an EPO provides immediate protection to the victim, who may not be able to immediately obtain a TRO at the courthouse even during business hours.

ii. If an EPO is appropriate, the application should be completed by the officer. The officer should note on the application whether or not the suspect has been arrested, or will be arrested when located. Regardless of the hour, contact County Communications and ask to be put in contact with the on-call judge for an EPO. The officer should leave the telephone number where the judge can reach him/her. Officers should ensure that the telephone equipment is working properly before requesting that the on-call judge use that number, and stand by with the line open until the return call is received from the judge.

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iii. EPOs are not provided at the County Jail or Juvenile Hall, nor is a Criminal Protective Order automatically issued. It is the responsibility of the officer to seek an EPO when appropriate, and to have EPO forms ready for use when on duty.

iv. In a non-arrest situation where an EPO is appropriate per the above factors, the officer should complete the application and seek issuance of the EPO pursuant to the above procedures. If the EPO is issued when the suspect is not present, an officer is required to make reasonable attempts to locate and serve the restrained party. If the suspect/restrained party is present or can be readily contacted, serve the order by providing the restrained party with a copy, and complete the Proof of Service on the form.

Document in the police report whether and how the order was served and provides a copy of the order to the protected party.

c. Service

i. Verbal Notice: If the victim has a previously-obtained restraining/protective order which has not yet been served on the suspect, and there is no extra copy of the order, the officer shall verbally inform the suspect of all of the terms of the order and document said verbal notice in the police report, including the case number of the order. The officer shall enter said verbal notice into the CLETS/CARPOS system. If a suspect is given verbal notice of the order, the officer shall advise the suspect to go to the local Family Court to obtain a copy of the order containing the full terms and conditions of the order (Family Code Section 6383(g)).

ii. Personal Service: If the victim has an extra copy of the order, the officer shall serve it on the suspect and fill out the proof of service and shall give the proof of service to the victim immediately. The officer may file the proof of service with the Clerk of the San Mateo County Superior Court via the court officer the following business day.

iii. Service By Mail: If the victim has proof that a copy of the Restraining Order After Hearing (ROAH) was mailed to the restrained party and he/she was present in court when the initial order was made, this is good service if the only change in the new order is the expiration date.

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To determine if an ROAH needs to be served, refer to page 3 of the ROAH form.

d. Common Situations

i. A restraining/protective order does not allow the use of a civil standby by the restrained person unless specifically stated in the order.

ii. The protected person cannot be in violation of his or her own protective order even when contact is initiated by the protected person. Only the restrained person's conduct can constitute a violation of the order.

iii. The protected person cannot invalidate an otherwise valid protective order by initiating contact with the restrained person.

iv. Officers shall enforce all provisions of a restraining/protective order, including child custody and visitation provisions, even if it has been issued in another jurisdiction, providing that the order identifies both parties and on its face, the restraining order is currently in effect.

4. If the suspect is present at the scene or contacted

a. Document spontaneous statements.

b. Prevent communication between the suspect and the victim, witnesses and children.

c. Seek to thoroughly interview the suspect. Advise suspect of Miranda rights if applicable.

i. ask suspect for a detailed account of the incident

ii. ask suspect to explain cause of the victim's injuries

iii. ask suspect to describe his/her relationship to the victim i.e.: spouse, cohabitant etc.

iv. ask suspect if the victim used any type of physical force

v. ask suspect if there are any prior incidents of domestic violence

d. Audio and/or video record the interview whenever possible.

e. Evaluate the suspect for danger to self or others under 5150 W&I.

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f. Document the presence or absence of any injuries to the suspect and ask how and when the injury(ies) occurred.

g. Document the presence or absence of any sign of alcohol or drug influence.

5. Evidence, Firearms, and Other Deadly Weapons

a. Document condition of crime scene (disarray of physical surroundings).

b. Photograph the crime scene, if applicable.

c. Ensure that the victim's/suspect's visible injuries are photographed, using digital equipment if available.

d. Inform the victim that he/she may be contacted by a follow-up investigator for additional photographs.

e. Inquire of the victim, alleged abuser, or both, whether a firearm or other deadly weapon is present at the location or owned, possessed or otherwise is accessible to the abuser. Confiscate any firearm or deadly weapon discovered as legally permissible.

f. Check in the Automated Firearms System (AFS) file to determine if firearms are registered to any involved person. Check CARPOS, APPS or any other available systems to determine if any involved person is prohibited from owning or possessing firearms.

g. Seize any firearm or other deadly weapon located in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of officers or other persons present (18250 PC).

h. Seize any firearms possessed in violation of 29800(a) PC – convicted felons, or 29805 PC – other specified misdemeanor convictions, 29825(b) PC – Possess firearm while prohibited by restraining order.

i. If a firearm is confiscated, issue a receipt to the owner describing the firearm and listing the serial number or other known identifier. Explain that the weapon may be available for return no sooner than 48 hours but not more than 5 business days. If the weapon is seized as evidence of a crime, it will not be returned per 18265(b) PC.

j. If the weapon seized is not evidence of a crime but is seized pursuant to PC 18250 (see g above), a determination shall be

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made prior to 5 business days from the seizure whether the return of the firearm or other weapons would be likely to result in endangering the victim or the reporting party. If so, the provisions of PC 18400 shall apply to the return or retention of the weapon.

6. Medical Treatment

a. Obtain authorization for release of medical records from victim, if possible.

b. Document extent of injuries/treatment, if known.

c. Obtain names, addresses, and phone numbers of fire, ambulance or paramedic personnel treating the victim at the scene and/or any other subsequent treating medical personnel.

d. Transport or call for transport of victim and children to a hospital for treatment when necessary, or stand by until victim or children can safely leave.

e. Officer shall encourage victims to be transported for examination and treatment in all domestic violence cases particularly when the victim reports being strangled by the suspect.

f. Whenever possible, the victim should be taken to the Keller Center at San Mateo County General Hospital where enhanced medical, forensic and support services will be provided.

7. Completing Crime Report

a. The officer shall maintain objectivity in reporting and avoid personal opinions regarding comments from victim/suspect.

b. The officer shall ensure that elements of all involved crimes are included in the report.

c. In the narrative portion of the report the officer shall thoroughly detail the injuries received and how they were inflicted. If the injury involved is "**complaint of pain only**," this fact shall explicitly be stated in the report.

If a felony 273.5 arrest is made based on an injury involving complaint of pain with no visible injuries, the officer shall give a detailed description of the force used, including type of force, number of blows inflicted, etc. (i.e., fist, open hand slap, etc.). The officer shall include a description of the extent and severity of the pain.

i. Does the victim have difficulty breathing?

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ii. Does the victim have difficulty standing or moving?

iii. Is the victim experiencing other restrictions as a result of the injuries?

d. The officer shall note whether the victim has received medical attention for the present injury or any prior domestic violence injuries and document where the treatment was received and the results, if known.

e. The officer shall explicitly describe strangulation attempts.

i. Did the suspect use hands or a ligature device?

ii. Did the victim lose consciousness?

iii. Does the victim have difficulty breathing or swallowing?

iv. Are there any marks visible on the victim's neck?

v. Does the victim complain of a hoarse or raspy voice as a result of the injuries?

vi. Is there indication of petechiae (rupture of the small capillaries, usually in the eyes, head or neck area above the point of constriction)?

vii. Did the victim lose bladder control?

viii. The officer shall detail the degree of force used in the strangulation attempt. If elements are present, the officer shall consider additional charges of 664/187 PC, attempted murder or 245 PC, assault with force likely to produce great bodily injury.

ix. What, if anything did the suspect say before, during or after the strangulation?

f. The officer shall document that victim received a written referral of resources per Penal Code Section 13701(i) as well as a copy of the victim's Marsy's Law rights in compliance with the Victim's Bill of Rights Act of 2008: as outlined in the California Constitution, Article I, Section 28(b): Penal Code Section 679.026.

g. The officer shall document past history of violence and check for existence of a restraining order.

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h. The officer shall document prior domestic violence incidents at that address involving the alleged abuser victim.

i. The officer shall document statements of victim, suspect, and all witnesses including children. All statements should be tape recorded.

j. The officer shall document all physical evidence of the offense.

k. The officer shall document probation/parole/PRCS and mandatory supervision status.

l. The officer shall document whether alcohol &/or drugs were involved by the alleged abuser.

m. The officer shall document names, ages and schools attending of children who were present and/or who reside in the home at the time the offense occurred. If children were present, the officer shall document their emotional state when observed and interview children on tape, away from the suspect. Include information on their anticipated whereabouts after the incident.

n. The officer shall document if any pets were harmed or there is evidence of animal abuse.

o. The officer shall inquire and document the inquiry.

i. For the protection of the officer or other persons present, to inquire of the victim, abuser, or both, whether a firearm or other deadly weapon was present at the location (13730 PC).

p. If a valid restraining order prohibits firearms possession by a person involved in the incident, the officer shall make a record in the crime or incident report of:

i. Inquiries made to determine if the restrained person possesses any firearms.

ii. The results of efforts made to locate and seize any unlawfully possessed firearms.

q. If a violation of a restraining/protective order is alleged:

i. In the police report, the officer shall describe the specific terms of the order that were violated by the restrained person, even if the suspect left the scene.

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ii. The officer shall attach a print-out of the order from CARPOS and/or a copy of the actual order.

r. If an EPO was considered, sought, issued or declined, The officer shall document this fact in the report and, if issued, attach a copy of the issued order to the report.

s. When documenting a domestic violence-related crime, identify the report as a domestic violence incident on the face of the report as required by PC 13730.

8. If a victim spontaneously states that prosecution is not desired, that statement should be documented. However, the victim should be told that the decision to prosecute is made by the District Attorney. Officers shall not misinform victims or suspects of domestic violence that the victim has the authority "press" charges or "drop" charges.

9. Victim Resources and Rights

a. Officers shall furnish victims with an "Information and Resources for Victims of Domestic Violence" form which includes the telephone number for the Victim/Witness Assistance Center in San Mateo County and the toll free telephone number for the California Victim Compensation and Government Claims Board (800-777-9229). The card shall also include the names and phone numbers of shelters or counseling centers and state that domestic violence or assault by a person who is known to the victim or who is the spouse of the victim is a crime. The California Victim Compensation and Government Claims Board can authorize a cash payment or reimbursement to an adult victim of domestic violence for specified expenses. Counseling funds for children may also be available for those identified in the police report.

b. Officers shall furnish victims with a copy of the Victim's Bill of Rights in compliance with the Victim's Bill of Rights Act of 2008: Marsy's Law, as outlined in California Constitution, Article I, Section 28(b): Penal Code Section 679.026.

c. Officers are encouraged to provide a victim with a CORA (Community Overcoming Relationship Abuse) brochure outlining the resources and services available to them from CORA.

10. Emergency Response Program – "ERP"

a. When handling an incident involving ANY type of domestic violence, notification to the ERP program shall be made. A notification to a counselor will be made whether or not it is

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determined the incident is criminal in nature and whether or not an arrest is made. The procedure should be as follows:

i. Contact the ERP crisis counselor at CORA (Community Overcoming Relationship Abuse), at (650)652-0813. Between the hours of 0900-2200 Monday-Friday, the telephone will be answered live by a CORA crisis counselor. After-hours and on weekends, officers will be directed to CORA's automated paging system which will prompt the officer to leave a voicemail message. Include the following information: OFFICER NAME, AGENCY, PHONE NUMBER AND CASE NUMBER. The phone system will automatically alert the CORA crisis counselor who will retrieve your voicemail and return your call on scene within 5-10 minutes. If possible, standby while the counselor speaks to the victim or involved parties. Record the name of the counselor who took your call in the appropriate section of your report.

ii. If unable to contact a CORA counselor from the scene (i.e., party is intoxicated, declines to speak with a counselor or officer clears before contact is made with CORA), provide contact information for the involved parties to the ERP by using the secure webpage referral system via the LAWNET link. When the information is received by CORA, you will receive confirmation and an ERP referral number. Record this confirmation number and/or print the confirmation and attach it to your report in lieu of the counselor name. Inform the victim that a CORA counselor will follow-up with him/her.

iii. If dispatch contacts CORA on behalf of an officer, they will need the officer name, agency, contact information for the officer and victim, case number and a brief summary. The CORA counselor will request to be connected to the officer at the scene.

iv. In all cases where children are present at the scene of the incident, please communicate and/or document the level of involvement in your summary.

v. Fax a copy of the police report to CORA/ERP upon completion. The fax number is 650-652-0808.

vi. A CORA brochure should be provided to the victim at the scene of ANY domestic violence incident.

b. The officer shall document in the report that the CORA/ERP counselor was notified and spoke with either one or both of the

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parties. If the counselor is not paged or does not respond to the page, that information shall be documented.

11. A coordinated response of law enforcement and child welfare agencies is required by PC 13732(b). In all domestic violence incidents where children were present and/or where children reside in the home, a notification to CORA shall be made. The ERP screener will determine if a report to CFS is warranted.

12. In all domestic violence incidents, an officer shall assist in making arrangements to transport the victim to alternate shelter if the victim expresses a concern for safety or the officer determines a need exists.

13. Response to Mandated Reports from Health Care Providers

Health care providers will report suspected incidents of domestic violence, pursuant to PC11160 to the law enforcement agency of jurisdiction where the incident occurred.

This determination may be facilitated by County Communications when the health care provider contacts them as provided for at P6, section E. In the event that it is impractical to make notification to the agency of jurisdiction, the local agency of the reporting medical practitioner will be notified. In those cases, the local agency will respond, determine the agency of jurisdiction and coordinate response by the agency of jurisdiction.

The local responding agency should assist the agency of jurisdiction by taking a courtesy report and forwarding any other documentation of the crime to the agency of jurisdiction.

A report shall be initiated by the agency of jurisdiction, documenting whether or not contact with the victim was made, and any subsequent information which has been developed.

It shall be the goal of San Mateo County law enforcement agencies to respond appropriately to mandated medical reports, with victim safety of paramount concern, while ensuring aggressive enforcement of domestic violence laws.

After receiving either a telephonic or written mandated medical report, the following factors should be considered in determining the appropriate method, location and timing of response.

a. If a current telephonic report where victim is presently at the health care facility:

i. Is suspect present at scene?

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ii. Did victim disclose domestic violence as the cause of injury, or is the report based on the suspicions of the health care provider?

b. If a written report submitted after the medical treatment has occurred and victim has departed:

i. Does the report contain information enabling the officer to contact the victim under circumstances which will ensure her/his safety? Consider the following:

- Does the victim know the police were notified?
- Does the suspect know the police were notified?
- Is the suspect likely to retaliate against the victim if he learns of contact by law enforcement resulting from the medical report?
- In most circumstances, contact with the victim should be made where the suspect is not present (i.e., victim's workplace) but consideration should always be given to whether or not an immediate arrest of the suspect can or should be made to ensure the victim's safety.

D. **DOMESTIC VIOLENCE RELEASE NOTIFICATIONS**

When a suspect is taken into custody for a domestic violence related offense, the victim shall be informed of her/his right to be notified upon the release of the suspect from custody. If the victim chooses to participate in the release notification program, the "Violent Crime Victim Notification Request" form will be utilized. The form will be submitted to staff at the San Mateo County Jail at the time of booking.

If the victim initially declines the notification service, s/he should be informed that s/he may elect to participate at a later time by calling the telephone number listed on the form.

Attempts will be made by the jail staff to contact the victim prior to the defendants release from custody on a continuous 24 hour basis for up to 72 hours of the release. There is no guarantee however that the notification will be completed prior to the defendants release from custody. Telephone notification will be initiated by the Sheriff's Release on Own Recognizance (ROR) Unit at the jail.

Also, as part of the Victim Notification Program, the ROR Legal Office Specialist (LOS) will contact the law enforcement agency of jurisdiction wherein the victim resides (as listed on the Violent Crime Victim Notification Request form).

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If the ROR LOS has been unsuccessful in contacting the victim, an officer should then be dispatched to attempt contact with the victim and personally notify the victim of the pending or completed release of the defendant. If unable to contact the victim at home, a note should be left.

Additionally, the ROR Unit will mail a letter to the victim informing her/him of the release. Every effort should be made to notify the victim of a suspect's release to try and ensure the safety of the victim.

In addition, in 2015, the San Mateo Co. Sheriff's Office began participation in the California Victim Notification Service "VINE" (Victim Information and Notification Everyday). This service is provided by the California State Sheriff's Association and the California Department of Corrections and Rehabilitation and may be found at www.vinelink.com and via telephone at 877-411-5588. A crime victim may elect to subscribe to this free service which will electronically track the custody status of an inmate and notify the victim of the offenders release via phone call, text message or e-mail. Pamphlets have been distributed to San Mateo Co. law enforcement agencies so they may be made available to crime victims.

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FOLLOW-UP INVESTIGATION

A. All domestic violence reports prepared by officers pursuant to Penal Code section 13700 et seq., should be reviewed and given follow-up investigation as needed.

B. Follow-up investigations should be geared to the requirements of the District Attorney's Domestic Violence Unit.

1. Follow-up investigations should include the following (if not already included in the initial investigation):

a. Verify the inclusion of all investigative steps described above regarding patrol officer response/investigation;

b. Obtain medical records, if available;

c. Preserve a copy of the 911 call involving the original call for assistance, as needed;

d. Interview/re-interview witnesses, as necessary and record all interviews;

e. Photograph victim's injuries (irrespective of whether photos were taken by the responding officer);

f. When contacting victim for re-interview or photographs, ask if the suspect has contacted her/him since the domestic violence incident. Obtain details of contact and document suspect's statement to victim.

g. Record name, address, and phone number of two close friends or relatives of the victim who will know the victim's whereabouts 6-12 months from the time of the incident;

h. Verify a complete criminal history check of the suspect has been done. When appropriate, conduct a Juvenile Probation records check. Also conduct queries on the suspect in the Automated Firearms System (AFS), California Restraining and Protective Order System (CARPOS), and the Violent Crime Information Network (VCIN). Attach results of these checks to the investigator's report.

i. Follow-up investigation personnel shall cross report suspected child abuse as required by PC 11165, 11166 and 11172(a) if not previously done.

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j. Follow-up investigation personnel shall cross report suspected elder or dependent adult abuse as required by 15610, 15630 and 15640 WI. (Adult Protective Services, 1-800-675-8437) if not previously done.

2. Follow-up investigation personnel shall not consider the desire of the victim to "drop" charges in assessing whether the case should be submitted to the District Attorney's Domestic Violence Unit.

3. Investigative personnel handling domestic violence cases should analyze each domestic violence case by asking the following questions:

a. Can the elements of the offense be established without the testimony of the victim?

i. If the answer is "yes," the case should be submitted to the District Attorney's Office or Juvenile Probation Department for review, irrespective of the wishes of the victim.

ii. If the answer is "no," the next question should be considered.

b. Will the victim come to court and tell the truth if subpoenaed to do so by the District Attorney?

i. If the answer is "yes," the case should be submitted to the District Attorney or Juvenile Probation Department for review.

ii. If the answer is "no," can further investigation locate additional witnesses or evidence which would allow prosecution without a cooperative victim, such as:

- witness statements;
- prior inconsistent statements;
- physical evidence;
- content of 911 recording;
- circumstantial evidence;
- defendant's statements.

If so, the evidence should be obtained and the case should be submitted to the District Attorney.

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If not, the case need not be submitted, but should be filed with Records pursuant to Penal Code Section 13700 et seq.

Under no circumstances should a victim be asked if he/she wishes to "press charges" or "drop charges." Investigative personnel should not ask a victim if he/she wants to "prosecute" his/her batterer. The focus of the investigative follow-up should be on the questions contained above in section #3 and the victim should be informed that the decision to prosecute is one which will be made by the Office of the District Attorney.

4. If the crime involves the use of a firearm, the reports shall be submitted without exception to the District Attorney's Office or Juvenile Probation Department for review.

5. In accordance with Family Code section 6228, victims of domestic violence are entitled to a copy of the report, upon request, free of charge and in a timely manner. All departmental staff involved in responding to such requests should be familiar with the provisions of this statute.

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ENFORCEMENT OF RESTRAINING ORDERS

Law Enforcement Officers involved in domestic violence investigations often deal with civil restraining orders. However, criminal protective orders are also issued in criminal cases both while the case is pending and/or post-conviction.

A. **CIVIL RESTRAINING ORDERS**

1. **An Emergency Protective Order (EPO)** is requested by a police officer in urgent circumstances. The EPO is authorized by a Duty Judge after receiving a telephonic application from the requesting officer. An EPO is valid for five court days or seven calendar days, providing the protected person sufficient time to obtain a Temporary Restraining Order. (Refer to the Patrol Officer Response/Investigation chapter for instructions in obtaining an EPO).

2. **A Temporary Restraining Order "TRO"** is obtained in court by a protected person upon submission of an application, including an affidavit explaining the need for the order. A TRO is valid for a limited period of time, usually about a month, until a court hearing is conducted to receive testimony from both the restrained and protected persons. A protected person may receive assistance from a victim advocacy agency in applying for a TRO.

3. **A Restraining Order after Hearing "ROAH"** is issued by a judge for a longer period of time, up to 5 years.

   a. Domestic violence restraining orders shall be enforced by all law enforcement officers. Under Penal Code Section 273.6 (a), it is a misdemeanor for the restrained party to intentionally and knowingly violate any of the protective orders issued pursuant to the Uniform Parentage Act, Family Code, the Domestic Violence Prevention Act, the Workplace Violence Safety Act or the Civil Harassment Prevention Act. Penal Code Section 273.6 (d) makes it a felony to violate a restraining order, with violence or threat of violence, after suffering a prior conviction for violation of Penal Code Section 273.6 within 7 years. The elements of the crime require willful disobedience of the terms of the order. Proof of Service shows that the suspect has the requisite knowledge to be in violation of the order. Verbal notice by the officer of the terms of the Order is sufficient notice for the purpose of enforcing section 273.6 PC (Family Code Section 6383(e)).

   b. The terms and conditions of the restraining order remain valid and enforceable, in spite of the acts of the victim, and may be changed only by order of the court. The "protected person" cannot be in

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violation of his or her own protective order nor can they "give consent" to violate any of the terms of the order.

B. **CRIMINAL PROTECTIVE ORDERS**

Also known as PC 136.2 Orders or Stay Away Orders, Criminal Protective Orders are typically ordered in criminal domestic violence cases at the time a defendant is arraigned and may remain in effect throughout the pendency of the case including the sentence imposed, and will be enforced by all law enforcement officers. This order is valid until the order is terminated or modified by the court. A criminal protective order is sought by the District Attorney, not the victim and can include no contact, no harassment, and weapons surrender provisions. PC Section 166(c)(1) is the charging section for all Criminal Protective Order/PC 136.2 order violations.

C. **ENFORCEMENT OF ORDERS**

1. Officers shall make arrests for any violations that are committed in their presence. A victim still retains his/her right to make a private person's arrest. A misdemeanor warrantless arrest may be made if an officer has reasonable cause to believe that the person violated a restraining order outside his/her presence pursuant to PC 836(c)(1).

2. Penal Code Section 273.6 is the charging section for all Family Code restraining order violations including EPOs, TROs and ROAHs. The orders may include any or all of the following provisions:

   a. An order enjoining any person from directly or indirectly contacting, telephoning, contacting repeatedly by mail with the intent to harass, molesting, attacking, striking, threatening, stalking, sexually assaulting, battering, harassing, or disturbing the peace of the other person or other named family and household member.

   b. An order excluding one person from the family dwelling or the dwelling of the other person/party or other named family and household member.

   c. An order enjoining a person from specified behavior that the court determined was necessary to effectuate the orders.

3. If, at the scene of a domestic disturbance a person shows or informs the officer of the existence of a restraining order, it is crucial to establish the present status and terms of the order. All domestic violence restraining and protective orders should be entered into the California Restraining and Protective Order System (CARPOS) via CLETS and available to law enforcement.

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4. Law enforcement agencies shall serve a previously unserved party to be restrained at the scene of a domestic violence incident or at any time the party is in custody (13710(c) PC). The law enforcement agency serving the order shall make record of service into CARPOS (6380 (d) FC).

   Once the order is served, an arrest may be made if the suspect refuses to comply with the terms of the order.

5. If the officer cannot verify the order, it may be enforced through a private person's arrest procedure. If it is the officer's opinion that the elements of the crime do not exist, the officer may then consider a release per Penal Code Section 849(b).

6. If a Restraining Order violation has occurred and the suspect is not present, the officer will submit a crime report of the appropriate violation and the officer will attempt to locate the suspect and arrest pursuant to Section 836(c) PC. **Under no circumstances shall an officer fail to prepare a crime report on a restraining order violation simply because the suspect is no longer present.**

7. A Criminal Protective Order issued pursuant to PC 136.2 has precedence over any conflicting civil restraining orders affecting the parties. (PC 136.2 (h)(2)).

D. **OUT OF STATE ORDERS**

1. Officers shall enforce out-of-state protective or restraining orders that are presented to them if conditions below are met. (Out of State Orders include those issued by U.S. Territories, Indian tribes, and military agencies).

   a. The order appears valid on its face

   b. The order contains both parties' names

   c. The order has not yet expired

(Full Faith and Credit Provision of the Violence Against Women Act, Family Code Sections 6400-6409).

2. Officers should check CARPOS to determine if the order has been registered in California. If the order is not registered, an attempt should be made to contact the foreign jurisdiction or its registry for confirmation of validity. If validation cannot be substantiated, the officer can contact the Duty Judge for an EPO, but the officer shall still enforce the out-of-state protective or restraining order if it meets the above criteria. If not registered in California parties should be advised to immediately register the order through the Family Court.

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E. **FIREARMS**

Family Code section 6389 et seq prohibits persons who are subject to the terms of a protective order from owning, possessing, purchasing or receiving a firearm. When an officer verifies that a domestic violence restraining order, criminal protective order or other applicable restraining order is in effect, the officer shall make reasonable efforts to determine if the restraining order prohibits the possession of firearms and/or requires the relinquishment of firearms. If the order prohibits firearms possession, the officer will make reasonable efforts to:

1. Inquire of the restrained person, if present or contacted during the investigation, if he/she possesses firearms.

2. Inquire through the CLETS Automated Firearms System (AFS) to determine if any firearms are registered to the restrained person.

3. Inquire of the protected person whether the restrained person possesses any firearms.

4. Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search.

5. Document in the crime or incident report:

   a. Inquiries made to determine if the restrained person possesses any firearms.

   b. The results of efforts made to locate and seize any unlawfully possessed firearms.

6. All law enforcement agencies shall have the responsibility of receiving and storing firearms surrendered pursuant to a restraining order for residents in their jurisdiction.

7. Each county law enforcement agency having responsibility for the investigation of domestic violence shall adopt policies and procedures addressing the receipt, storage and release of firearms surrendered or seized pursuant to a restraining order.

The San Mateo County Sheriff's Office Domestic Violence Firearms Compliance Unit is staffed by a full time detective who works in close collaboration with C.O.R.A., Bay Area Legal Aid, Legal Aid Society of San Mateo County, San Mateo County District Attorney's Office and San Mateo County Probation to proactively enforce the firearm prohibition for those persons subject to the terms of a domestic violence restraining order. The detective reviews all the domestic violence civil restraining orders issued in San Mateo County to ensure the safe surrender of firearms from the control of persons subject to those orders. The policies and procedures of the DVFCU are detailed in a separate protocol.

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Domestic Violence

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MILITARY SUSPECTS

All domestic violence incidents involving military suspects shall be handled according to this law enforcement protocol if the incident occurred outside the boundaries of a military facility.

The intent of this policy is to eliminate all informal referrals, diversions, or report taking omissions in the handling of domestic violence incidents involving military personnel.

No informal agreements with military police or a suspect's commanding officer shall take precedence over a suspect's arrest and prosecution by non-military authorities.

LAW ENFORCEMENT SUSPECTS

All domestic violence incidents involving law enforcement suspects shall be handled according to this protocol. There shall be no deviation from the protocol merely because the suspect is employed by a law enforcement agency.

Any officer investigating an alleged incident of domestic violence involving a law enforcement suspect shall notify his/her on-duty supervisor as soon as possible. The investigating agency shall notify the suspect's employing agency as soon as possible after the incident or initial report. All alleged incidents of domestic violence involving suspects who are employed, as peace officers will be reviewed by the District Attorney's Office. All reports and information regarding suspects who are employed as peace officers shall be delivered to the suspect's law enforcement employer as soon as practical at the completion of the investigation.

JUVENILE SUSPECTS

All provisions of this protocol, including mandatory arrest and booking of the perpetrator, whether a felony or misdemeanor, and offering the victim an Emergency Protective Order, shall be applied to all cases of domestic violence wherein the suspect is a juvenile. Domestic violence, as defined by the Penal Code, includes violence perpetrated against juveniles.

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TRAINING

A. Each law enforcement agency shall conduct mandated domestic violence training for law enforcement officers and dispatchers as described in PC 13519 and 13700 et seq.

B. The goals of the training are to inform officers of:

1. The domestic violence and stalking laws;
2. This Protocol;
3. The department's domestic violence policy and procedures;
4. The signs and dynamics of domestic violence, including the effects on children;
5. Law Enforcement investigative techniques;
6. District Attorney Domestic Violence Unit policies;
7. Awareness and enforcement of the different types of restraining orders;
8. Victim advocacy groups working in their jurisdiction; and,
9. Domestic violence issues specific to various cultures and lifestyles.

C. Additional training should include written bulletins, digital evidence, verbal reminders, and updates during patrol briefings.

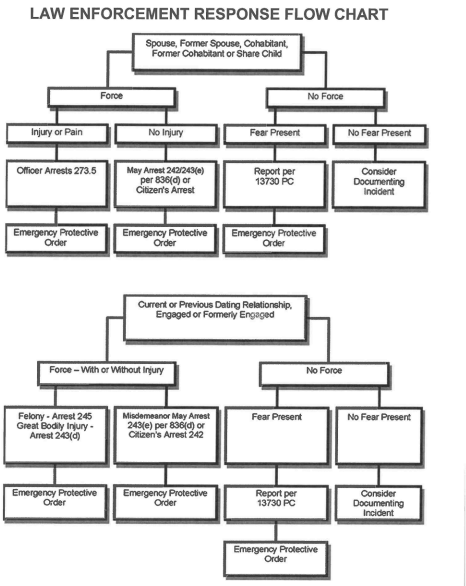
D. The Chief of Police, or his/her designee, shall ensure the review of his/her department's training policies annually and make any revisions deemed necessary.

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Domestic Violence

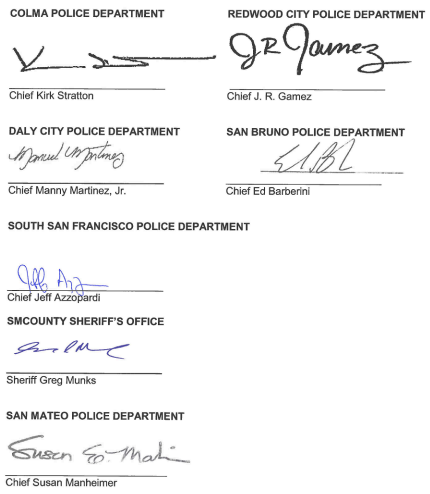
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317.44 REPORTS AND RECORDS

(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)).

317.45 RECORD-KEEPING AND DATA COLLECTION

This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information

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is to be reported to the Attorney General monthly. It shall be the responsibility of the Records Supervisor to maintain and report this information as required.

317.46 SERVICE OF COURT ORDERS

(a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located and shall provide the person protected or the person's parent/guardian with a copy of the order. The officer shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).

(b) 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).

317.47 PUBLIC ACCESS TO POLICY

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

317.48 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).

317.49 DOMESTIC VIOLENCE DEATH REVIEW TEAM

This department should cooperate with any interagency domestic violence death review team investigation. Written and oral information relating to a domestic violence death that would

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otherwise be subject to release restrictions may be disclosed to the domestic violence death review team upon written request and approval of a supervisor (Penal Code § 11163.3).

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Search and Seizure

319.1 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 Atherton Police Department personnel to consider when dealing with search and seizure issues.

319.2 POLICY

It is the policy of the Atherton 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.

319.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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319.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

(a) Members of this department will strive to conduct searches with dignity and courtesy.

(b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.

(c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.

(d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.

(e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:

1. Another officer or a supervisor should witness the search.
2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

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Involuntary Drawing of Blood

320.1 POLICY

Blood may be taken by force in any felony investigation, or in a misdemeanor drunk driving investigation when the suspect, after having been advised of his or her rights per Vehicle Code § 13353, refuses to take a chemical test. If the suspect makes a timely and reasonable request to undergo a different and viable form of testing, such request shall be considered. Blood may only be taken by force when the following circumstances have been met:

(a) The suspect must be in custody and the officer must have reason to believe the suspect is intoxicated.

(b) The blood is taken in a medically approved manner.

(c) Only reasonable force may be used to restrain the arrestee.

320.1.1 PROCEDURE

The involuntary drawing of blood should be accomplished in the following manner:

(a) The suspect will be asked to submit to the test.

(b) The suspect will be advised that restraint will be used if necessary.

320.1.2 WATCH COMMANDER RESPONSIBILIITY

The Watch Commander must grant approval and shall be present when blood is forcibly extracted from a suspect who is uncooperative or has refused a chemical test. The amount of force used to accomplish the collection of this evidence will be controlled by that Watch Commander, keeping in mind the following:

(a) In felony cases, force which reasonably appears necessary to overcome the resistance to the blood being withdrawn will be permitted.

(b) In misdemeanor cases, the suspect shall be handcuffed with his/her hands behind his/her back while seated on a chair or bench while the blood is being withdrawn. If the suspect becomes violent to the extent that he/she cannot be controlled, additional force will not be used and a refusal noted in the report.

The Watch Commander shall immediately stop attempts to draw blood if it appears the degree of restraint necessary could cause injury to the suspect or others.

320.1.3 USE OF FORCE

Department policy prohibits any unreasonable use of force to extract blood such as the following:

(a) Excessive bending, twisting, or hperextenstion of arms (i.e. no more force may be used than is necessary to accomplish the task).

(b) Use of any weapon.

(c) Striking blows.

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(d) Neck restraints.

(e) The seriousness of the offense is not to be considered in the decision to use force or how much force is to be exerted.

The officer shall be responsible for booking the blood samples into the evidence collection refrigerator at either the jail or First Chance. The officer shall follow all guidelines and evidence packaging requirements for the booking of blood samples.

When a suspect cannot submit to a blood test because he/she is a hemophiliac or is using an anticoagulant under the direction of a physician for a heart condition, he or she shall not be required to take a blood test.

320.1.4 EVIDENCE COLLECTION

The officer shall be responsible for booking the blood samples into the evidence collection refrigerator at either the jail or First Chance. The officer shall follow all guidelines and evidence packaging requirements for the booking of blood samples.

When a suspect cannot submit to a blood test because he/she is a hemophiliac or is using an anticoagulant under the direction of a physician for a heart condition, he or she shall not be required to take a blood test.

320.1.5 ADDITIONAL INFORMATION

This policy is also listed under § 514.26 (Drunk Driving and Evidence Collection).

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Temporary Custody of Juveniles

321.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Atherton Police Department (34 USC § 11133).

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

321.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for the juvenile's own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for the juvenile's protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person. Juveniles 11 years of age or younger are considered juvenile non-offenders even if they have committed an offense that would subject an adult to arrest.

Juvenile offender - A juvenile 12 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Welfare and Institutions Code § 602). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1; 15 CCR 1150).

Safety checks - Direct, visual observation personally by a member of this department performed at random intervals within time frames prescribed in this policy to provide for the health and welfare of juveniles in temporary custody.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object (15 CCR 1146).

Examples of secure custody include:

(a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.

(b) A juvenile handcuffed to a rail.

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(c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

(d) A juvenile being processed in a secure booking area when a non-secure booking area is available.

(e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

(f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

(g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact that is more than brief or inadvertent.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

321.2 POLICY

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

321.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Atherton Police Department:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).

(e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

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These juveniles should not be held at the Atherton 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).

321.3.1 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).

321.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

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

321.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Atherton 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 Atherton Police Department without authorization of the arresting officer's supervisor or the Watch Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of the juvenile's entry into the Atherton Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1).

321.4.1 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 Atherton Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (34 USC § 11133; Welfare and Institutions Code § 206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination (Welfare and Institutions Code § 602.1).

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Temporary Custody of Juveniles

321.4.2 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).

321.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Atherton Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally, a juvenile offender may be taken into custody when authorized by a court order or when there is probable cause to believe the juvenile has committed an offense that would subject an adult to arrest (Welfare and Institutions Code § 625).

A juvenile offender who is 14 years of age or older and taken into custody for committing or attempting to commit a felony with a firearm shall not be released and be transported to a juvenile facility (Welfare and Institutions Code § 625.3).

A juvenile offender suspected of committing murder, a sex offense described in Welfare and Institutions Code § 602(b) that may subject the juvenile to criminal jurisdiction under Welfare and Institutions Code § 707, or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

(a) Released upon warning or citation.

(b) Released to a parent or other responsible adult after processing at the Department.

(c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.

(d) Transported to the juvenile offender's home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

In determining which disposition is appropriate, the investigating officer or supervisor shall prefer the alternative that least restricts the juvenile's freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (Welfare and Institutions Code § 626).

Whenever a juvenile offender under the age of 14 is taken into custody, the officer should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26).

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321.5 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).

321.5.1 CONTACT OF SUSPECTED JUVENILE ABUSE VICTIMS

An officer should not involuntarily detain a juvenile suspected of being a victim of abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless:

a) Exigent circumstances exist. It will be incumbent upon the investigating officer to articulate the basis for any exigency in related reports, for example:

1. A reasonable belief that medical issues need to be addressed immediately, or

2. It is reasonably believed that the child is or will be in danger of harm if the interview or physical exam is not immediately completed, or

b) A court order or warrant has been issued.

In all circumstances in which a suspected child abuse victim is contacted, it will always be incumbent upon the investigating officer to articulate in the related reports the overall basis for the contact and what, if any, exigent circumstances exist.

321.6 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

(a) Identifying information about the juvenile.

(b) Date and time of arrival and release from the Atherton Police Department (15 CCR 1150).

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(c) Watch Commander notification and approval to temporarily hold the juvenile.

(d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.

(e) Any changes in status (e.g., emergency situations, unusual incidents).

(f) Time of all safety checks.

(g) Any medical and other screening requested and completed (15 CCR 1142).

(h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1; 15 CCR 1145).

(i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Watch Commander shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

321.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133; Welfare and Institutions Code § 207.1; Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Atherton 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).

321.8 TEMPORARY CUSTODY REQUIREMENTS

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

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2. This does not apply to surreptitious and legally obtained recorded interrogations.

(e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).

(f) Juveniles shall be provided sanitary napkins, panty liners, and tampons as requested (15 CCR 1143).

(g) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).

(h) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).

(i) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.

(j) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).

(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).

321.9 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 Atherton 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).

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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).

321.10 PERSONAL PROPERTY

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

321.11 SECURE CUSTODY

Only juvenile offenders 14 years of age or older may be placed in secure custody (Welfare and Institutions Code § 207; 15 CCR 1145). Watch Commander approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to themselves or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to themselves or others include the following (15 CCR 1145):

(a) Age, maturity, and delinquent history

(b) Severity of offense for which the juvenile was taken into custody

(c) The juvenile offender's behavior

(d) Availability of staff to provide adequate supervision or protection of the juvenile offender

(e) Age, type, and number of other individuals in custody at the facility

Members of this department shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

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321.11.1 LOCKED ENCLOSURES

A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

(a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.

(b) Juveniles shall have constant auditory access to department members (15 CCR 1147).

(c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1).

(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.

321.12 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 Atherton Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

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

(b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.

(c) Notification of the appropriate prosecutor.

(d) Notification of the Town 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).

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(h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.

(i) Evidence preservation.

321.13 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.

321.13.1 MANDATORY RECORDINGS OF JUVENILES

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a department facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.

(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.

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(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).

321.14 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor, or in the supervisor's absence, the Watch Commander.

Any juvenile 14 years of age or older who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted, and photographed.

For all other acts defined as crimes, juveniles may be booked, fingerprinted, or photographed upon the approval from the Watch Commander or the Detective Bureau supervisor, giving due consideration to the following:

(a) The gravity of the offense

(b) The past record of the offender

(c) The age of the offender

321.15 RELEASE OF INFORMATION CONCERNING JUVENILES

Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this department shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.

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 Atherton 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 Supervisor and the appropriate Detective Bureau supervisors to ensure that personnel of those bureaus act within legal guidelines.

321.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

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

321.17 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

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321.18 NON SECURE DETENTION LOGS

See attachment: Non_Secure_Juvenile_Detention_Log_BSCC_Rev_Jan-14.pdf

321.19 TRAINING

Department members should be trained on and familiar with this policy and any supplemental procedures.

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Senior and Disability Victimization

323.1 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 Atherton Police Department members as required by law (Penal Code § 368.6).

The Atherton 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).

323.1.1 DEFINITIONS

Definitions related to this policy include:

Abuse of an elder (age 65 or older) or dependent adult - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.05 et seq.; Penal Code § 368.5).

Department protocols (or protocols) - A procedure adopted by a local law enforcement agency consistent with the agency's organizational structure and stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility.

Dependent adult - An individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict 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

(c) Homicide of an elder, dependent adult, or other adult or child with a disability

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(d) Sex crimes against elders, dependent adults, or other adults and children with disabilities

(e) Child abuse of children with disabilities

(f) Violation of relevant protective orders

(g) Hate crimes against persons with actual or perceived disabilities, including but not limited to disabilities caused by advanced age, or those associated with them

(h) Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age

323.2 POLICY

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

323.2.1 ARREST POLICY

It is the department policy to make arrests or to seek arrest warrants for elder and dependent adult abuse in accordance with Penal Code § 836 and, in the case of domestic violence, as allowed by Penal Code § 13701 (Penal Code § 368.6) (see Law Enforcement Authority and Domestic Violence policies for additional guidance).

323.2.2 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 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)).

323.3 INVESTIGATIONS AND REPORTING

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

Investigations and reports related to suspected cases of elder and dependent adult abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected elder and dependent adult abuse victim is contacted.

(b) Any relevant statements the victim may have made and to whom he/she made the statements.

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(c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.

(e) Whether the victim was transported for medical treatment or a medical examination.

(f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

(g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.

(h) Previous addresses of the victim and suspect.

(i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

(j) Witness and suspect statements if available.

(k) Review of all portable audio/video recorders, devices, and other available video.

(l) Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.

(m) Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).

(n) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the elder or dependent adult abuse (Welfare and Institutions Code § 15640(f)).

(o) Whether a death involved the End of Life Option Act:

1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).
2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).
3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).
4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential elder or dependent adult abuse and investigated similarly.

An unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability should be treated as a potential homicide until a complete investigation including an

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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)).

323.3.1 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)).

323.4 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).

    1. Ensure victims of sex crimes know their right to have a support person of their choice present at all times during an interview or contact (Penal Code § 368.6) (see the Sexual Assault Investigations Policy for additional guidance).

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2. Referrals to the crime victim 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.

323.5 MANDATORY NOTIFICATION

Members of the Atherton 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, 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)).

(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.

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(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, 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 receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

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

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

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

323.5.1 NOTIFICATION PROCEDURE

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

(a) The name of the person making the report.

(b) The name and age of the elder or dependent adult.

(c) The present location of the elder or dependent adult.

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(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.

323.6 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 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.

323.6.1 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)).

323.6.2 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)):

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(a) Inquire whether the restrained person possesses firearms. The officer should make this effort by asking the restrained person and the protected person.

(b) Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.

(c) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search in compliance with Penal Code § 18250 et seq. and in accordance with department procedures.

323.7 INTERVIEWS

323.7.1 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.

323.7.2 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.

323.7.3 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).

323.8 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.

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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.

323.9 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.

323.9.1 OFFICER RESPONSIBILITIES

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

(a) Document the environmental, medical, social, and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Detective Bureau supervisor so an interagency response can begin.

323.9.2 SUPERVISOR RESPONSIBILITIES

The Detective Bureau supervisor should:

(a) Work with professionals from the appropriate agencies, including APS, other law enforcement agencies, medical service providers, and local prosecutors, to develop community specific procedures for responding to situations where there are elder or dependent adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when an officer notifies the Detective Bureau supervisor that he/she has responded to a drug lab or other narcotics crime scene where an elder or dependent adult abuse victim is present or where evidence indicates that an elder or dependent adult abuse victim lives.

(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.

323.10 TRAINING

The Department should provide training on best practices in elder and dependent adult abuse investigations to members tasked with investigating these cases. The training should include:

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting interviews.

(c) Availability of therapy services for adults and families.

(d) Availability of specialized forensic medical exams.

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(e) Cultural competence (including interpretive services) related to elder and dependent adult abuse investigations.

(f) Availability of victim advocates or other support.

323.10.1 MANDATORY TRAINING

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

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

(b) Advanced training on senior and disability victimization available from POST, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources as provided by Penal Code § 368.6(c)(16)(A).

1. Training should include the following:

(a) Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers (Penal Code § 368.6(c)(1)).

(b) Information on the history of elder and dependent adult abuse and crimes against individuals with disabilities (see the POST Senior and Disability Victimization Policy Guidelines).

The Training Manager shall also ensure that appropriate training is provided on this policy to dispatchers, community services officers, front desk personnel, and other civilian personnel who interact with the public (Penal Code § 368.6 (c)(7)).

323.11 RECORDS BUREAU RESPONSIBILITIES

The Records Center 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.

323.12 JURISDICTION

The Atherton Police Department has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect and may assist in criminal investigations upon request, if consistent with federal law, in such cases. However, this department will retain responsibility for the criminal investigations (Penal Code § 368.5).

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Additional jurisdiction responsibilities for investigations of abuse involving various facilities and agencies may be found in Welfare and Institutions Code § 15650.

323.13 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 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

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the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

Welfare and Institutions Code § 15610.30

(a) "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:

1. Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
2. Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
3. Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

(d) For purposes of this section, "representative" means a person or entity that is either of the following:

1. A conservator, trustee, or other representative of the estate of an elder or dependent adult.
2. An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

Welfare and Institutions Code § 15610.43

(a) "Isolation" means any of the following:

1. Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
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.

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3. False imprisonment, as defined in Section 236 of the Penal Code.
4. Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice. medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe.

Welfare and Institutions Code § 15610.57

(a) "Neglect" means either of the following:

1. The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.
2. The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

1. Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
2. Failure to provide medical care for physical and mental health needs. A person shall not be deemed neglected or abused for the sole reason that the person voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
3. Failure to protect from health and safety hazards.
4. Failure to prevent malnutrition or dehydration.
5. Substantial inability or failure of an elder or dependent adult to manage personal finances.
6. Failure of an elder or dependent adult to satisfy any of the needs specified in paragraphs (1) to (5), inclusive, for themselves as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

(c) Neglect includes being homeless if the elder or dependent adult is also unable to meet any of the needs specified in paragraphs (1) to (5), inclusive, of subdivision (b).

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.

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(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

1. Sexual battery, as defined in Section 243.4 of the Penal Code.
2. Rape, as defined in Section 261 of the Penal Code, or former Section 262 of the Penal Code.
3. Rape in concert, as described in Section 264.1 of the Penal Code.
4. Incest, as defined in Section 285 of the Penal Code.
5. Sodomy, as defined in Section 286 of the Penal Code.
6. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
7. Sexual penetration, as defined in Section 289 of the Penal Code.
8. Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

1. For punishment.
2. For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
3. For any purpose not authorized by the physician and surgeon.

323.14 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 and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of department support for the victims and their families and for others in the community who are terrorized and traumatized by the crimes, and to encourage victims and witnesses to the crimes or similar past or future crimes to report those crimes to help bring the perpetrators to justice and prevent further crimes.

(b) Developing and including department protocols in this policy, including but not limited to the following:

1. Protocols for seeking emergency protective orders by phone from a court at any time of day or night pursuant to Family Code § 6250(d).

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2. Protocols for arrest warrants and arrests for senior and disability victimization for matters other than domestic violence and consistent with the requirements of Penal Code § 368.6(c)(9)(B) that include the following:

    (a) In the case of a senior and disability victimization committed in an officer's presence, including but not limited to a violation of a relevant protective order, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

    (b) In the case of a felony not committed in an officer's presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.

    (c) In the case of a misdemeanor not committed in the officer's presence, including but not limited to misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.

    (d) Protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.

3. Procedures for first responding officers to follow when interviewing persons with cognitive and communication disabilities until officers, or staff of other responsible agencies with more advanced training, are available. The procedure shall include an instruction to avoid repeated interviews whenever possible.

(c) For each department protocol, include either a specific title-by-title list of officer responsibilities or a specific office or unit in the Department responsible for implementing the protocol.

(d) Ensuring an appendix is created and attached to this policy that describes requirements for elder and dependent adult abuse investigations consistent with Penal Code § 368.6(c)(8)(B).

(e) Ensuring a detailed checklist is created and attached to this policy regarding first responding responsibilities that includes but is not limited to the requirements of Penal Code § 368.6(c)(23).

(f) Ensuring that all members carry out their responsibilities under this policy.

(g) Verifying a process is in place for transmitting and periodically retransmitting this policy and related orders to officers, including a simple and immediate way for officers to access the policy in the field when needed.

(h) Ensuring this policy is available to the Protection and Advocacy Agency upon request.

323.15 ELDER AND DEPENDENT ADULT ABUSE LIAISON

A department member appointed by the Chief of Police or the authorized designee will serve as the Elder and Dependent Adult Abuse Liaison. Responsibilities of the liaison include but are not limited to (Penal Code § 368.6):

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(a) Acting as a liaison to other responsible agencies (defined by Penal Code § 368.6(b)(15)) to increase cooperation and collaboration among them while retaining the law enforcement agency's exclusive responsibility for criminal investigations (Welfare and Institutions Code § 15650).

(b) Reaching out to the senior and disability communities and to the public to encourage prevention and reporting of senior and disability victimization.

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Discriminatory Harassment

325.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

325.2 POLICY

The Atherton Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

325.3 DEFINITIONS

Definitions related to this policy include:

325.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes, stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

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Discriminatory Harassment

325.3.2 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.

325.3.3 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 Town or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

325.3.4 SEXUAL HARASSMENT ACTS

Acts of Sexual Harassment include, but are not limited too:

(a) Unwelcomed or unsolicited sexual advances.

(b) Demands for sexual favors.

(c) Verbal or physical conduct of a sexual nature such as leering, whistling, sexual innuendoes, suggestive comments, pinching, grabbing or touching in a suggestive manner.

(d) Distributing or posting sexually suggestive or sexually explicit written communications, computer files, graffiti, cartoons, photographs, calendars, or drawings.

(e) Making or using derogatory comments, epithets, slurs or jokes.

(f) Using slang names or labels such as "sweetie", "honey", etc. to make reference to another member's gender.

(g) Talking about or commenting on another member's body or body parts.

(h) Ridiculing other employees for objecting to inappropriate behavior of others as described above.

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325.3.5 REPORTING SEXUAL HARASSMENT

(a) Any member of the Department who believes that he/she has been the victim of any form of sexual harassment should report the incident.

(b) Complaints of sexual harassment may include concerns regarding conduct, practices, or incidents, which the complaining employee reasonably believes involves sexually offensive behavior.

(c) The complaint may be either verbally or in writing.

(d) The employee making the complaint does not have to have been part of the original incident, but may make the complaint for another member, or, may make the complaint as a non-involved offended member.

(e) The complainant may report such acts to any of the following persons or agencies:

1. The employee's immediate supervisor.
2. Any other supervisor or manager within the chain of command.
3. The Chief of Police.
4. The State of California Department of Fair Employment and Housing.
5. The United States Equal Employment Opportunities Commission (EEOC).
6. Any member of this Department may circumvent the chain of command to report matters of sexual harassment.

(f) Members are urged to report incidents of sexual harassment as soon as possible after the original incident.

325.3.6 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.

325.4 RESPONSIBILITIES

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

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Personnel Director, or the City Manager.

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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.

325.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

(a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.

(b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.

(c) Ensuring that their subordinates understand their responsibilities under this policy.

(d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

(e) Making a timely determination regarding the substance of any allegation based upon all available facts.

(f) Notifying the Chief of Police or the Personnel Director in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

325.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

(a) Behavior of supervisors and managers should represent the values of the Department and professional standards.

(b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

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

325.4.3 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 Director, the City Manager, or the California Civil Rights Department for further information, direction, or clarification (Government Code § 12950).

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325.5 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, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

325.5.1 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.

325.5.2 FORMAL INVESTIGATION

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

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

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

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

325.5.3 ALTERNATIVE COMPLAINT PROCESS

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

325.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

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(a) Approved by the Chief of Police, the City Manager, or the Personnel Director, depending on the ranks of the involved parties.

(b) Maintained in accordance with the department's established records retention schedule.

325.6.1 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.

325.7 TRAINING

All employees receive the acknowledgement in their annual evaluation, along with a questionnaire of knowing what to do should a harassment incident occur.

By signing their evaluation they have reviewed the policy, understand its contents and agree to abide by its provisions.

325.7.1 STATE-REQUIRED TRAINING

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

(a) Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.

(b) All other employees shall receive one hour of classroom or other effective interactive training and education within six months of their employment or sooner for seasonal or temporary employees as described in Government Code § 12950.1.

(c) All employees shall receive refresher training every two years thereafter.

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

325.7.2 TRAINING RECORDS

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

325.8 WORKING CONDITIONS

The Commander or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other Town employees who are similarly tasked (2 CCR 11034).

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Discriminatory Harassment

325.9 REQUIRED POSTERS

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

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Out-of-State Child Custody and Visitation Orders

326.1 PURPOSE AND SCOPE

California has adopted the Uniform Child Custody Jurisdiction Act, Family Code section 344, *et. seq.,* which requires the California courts to recognize and enforce child custody determinations made out-of-state. The law establishes a process for registering out-of-state custody and visitation orders with California courts.

326.2 ENFORCEMENT OF OUT-OF-STATE ORDERS

Parents are not required to register an out-of-state custody or visitation determination, but registration is a pre-requisite to enforce the order. Registration puts the courts of another state on notice of an existing custody determination and of the issuing court's exclusive, continuing jurisdiction. It can be used to obtain assurance that the custody determination will be enforced in the future. A registered order is enforceable, as if it were a local order, as of the date of registration. Thus, once an out-of-state child custody determination is registered, a court of this state may grant any relief normally available under the laws of California to enforce the determination.

326.3 REGISTRATION PROCESS

A party sends or delivers a request for registration to a court in California, along with copies of the child custody determination and other required information. The court files the order as a foreign judgment and serves notice on the parent (or person acting as a parent) who has been awarded custody or visitation in the order. Persons who receive notice have 20 days to request a hearing to contest the validity of the order. If no such request is made, the order is confirmed as a matter of law and may be enforced as if it were a local order.

326.4 REGISTRATION LOCATION AND ASSISTANCE

Should the parent who was awarded custody seek assistance in the registering of an out-of-state child custody determination, he or she can be directed to the following:

San Mateo County Court

Family Facilitator

400 County Center, 6th Floor

Redwood City, California

650-363-4590

326.5 INFORMATION REFERENCE

The above information was provided by Town of Atherton Attorney Wynne Furth, and Veronica Ramirez, Attorney at Law, both from the Law Offices of McDonough Holland & Allen, PC. This information was provided in a memorandum form written on February 25, 2009.

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San Mateo County Chemical Suicide Protocol

327.1 PURPOSE

This protocol is provided with the intent of helping San Mateo County law enforcement agencies with basic identification of chemical suicides, and the process for activating the San Mateo County Terrorism Counter Assault Team to safely secure the scene.

Agencies and officers that suspect a chemical suicide and require a scene to be searched and cleared for medical and HAZMAT response should follow the following protocol.

327.2 CHEMICAL SUICIDE OVERVIEW AND HISTORY

Chemical Suicides caught media attention after more than 500 people took their lives in Japan in the beginning of 2008. Chemical suicides involve the mixing of household chemicals to create a lethal gas, most commonly Hydrogen Sulfide.

Suicides have always required a law enforcement and fire/medical response. The significant difference for first responders is the highly lethal gas that is produced with the mixed chemicals. A single inhalation in an effected environment can be lethal. Specialized equipment and training is needed for a safe response to chemical suicides.

327.3 TERRORISM COUNTER ASSAULT TEAM

Chemical suicide creates an environment unsafe for first responders. The suicide call causes fire crews to stage until law enforcement secures the scene. Law enforcement officers called to secure the scene are unable to safely operate in the toxic environment created by a chemical suicide.

The San Mateo County Terrorism Counter Assault Team (TCAT) is uniquely equipped and trained to provide a law enforcement element capable of working in this toxic environment. Utilizing TCAT in a chemical suicide provides an additional element of safety to first responders, while achieving scene security and crime scene protection.

327.4 ACTIVATION

Any agency that is believed to be responding to or on the scene of a chemical suicide is to contact the San Mateo County Communications and advise of the suspected chemical suicide event. County Communications will notify HAZMAT 14 the TCAT Command Group and the Coroner's Office who will decide on the team's activation based on the known circumstances.

Should a TCAT response be needed, the command group will activate the team via SMC Alert system.

First responders to a suspected chemical suicide should treat the scene as they would any other HAZMAT call and attempt to remain uphill and upwind while restricting access to the location. First responders should assist in evacuation of the area while taking care not to enter a contaminated area.

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San Mateo County Chemical Suicide Protocol

327.5 PERSONNEL RESPONSE REQUIREMENTS

One team commander, two (2) team leaders, eight (8) tactical operators and two (2) tactical medics will respond directly to the predetermined staging location for check-in and assignment. The twelve (12) member team will be split into two separate teams allowing for a rescue team, or a relief team depending on the length of the operation. Team members will respond with all of their individually issued tactical equipment, including their TCAT issued PPE.

At the approval of the TCAT commander on scene members of the Sheriff's explosive ordinance disposal unit may be activated to respond to the scene.

327.6 ON-SCENE RESPONSIBILITIES

The TCAT element will report directly to the Incident Commander. The TCAT element will be controlled through a unified command comprised of staff from TCAT, Fire, the Coroner's Office and the liaison designated by the incident commander of the jurisdiction involved.

The TCAT element will be utilized initially to clear, secure and if necessary mitigate any further dispersal of toxic chemicals. Once the scene has been secured TCAT will combine operations with the HAZMAT team and support that effort in the form of force security and if necessary evidence collection. TCAT will act in a supportive role to the investigating jurisdiction who will retain final investigative and evidentiary responsibility.

HAZMAT will serve as the safety officers for TCAT to include post-incident decontamination procedures.

327.7 EQUIPMENT STORAGE AND RESPONSE

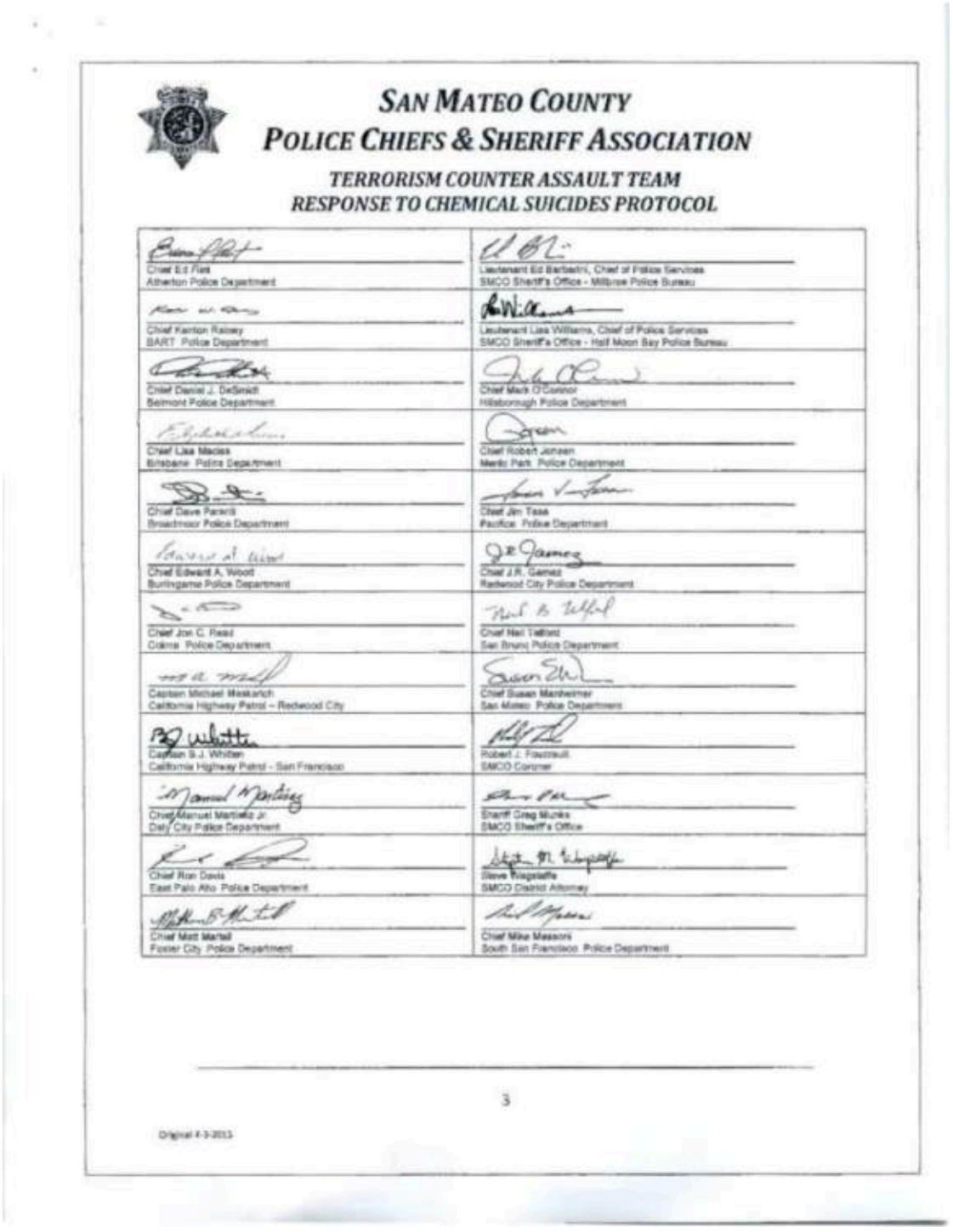
The TCAT equipment supply vehicle will be stored at the San Mateo Police Department. This supply vehicle will contain the teams SCBA units and additional call-out personal protective equipment.

At the time of the activation, TCAT Commander will designate a team member to respond to the San Mateo Police Department and retrieve the supply vehicle.

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San Mateo County Chemical Suicide Protocol

327.8 AGREEMENT PAGE



SAN MATEO COUNTY
POLICE CHIEFS & SHERIFF ASSOCIATION

TERRORISM COUNTER ASSAULT TEAM
RESPONSE TO CHEMICAL SUICIDES PROTOCOL

Chief Ed Fies Atherton Police Department	Lieutenant Ed Barbadini, Chief of Police Services SMCO Sheriff's Office - Millbrae Police Bureau
Chief Kenton Rainey BART Police Department	Lieutenant Lisa Williams, Chief of Police Services SMCO Sheriff's Office - Half Moon Bay Police Bureau
Chief Daniel J. DeSmidt Belmont Police Department	Chief Mark O'Connor Hillsborough Police Department
Chief Lisa Macias Brisbane Police Department	Chief Robert Jonsen Menlo Park Police Department
Chief Dave Parenti Broadmoor Police Department	Chief Jim Tasa Pacifica Police Department
Chief Edward A. Wood Burlingame Police Department	Chief J.R. Gamez Redwood City Police Department
Chief Jon C. Read Colma Police Department	Chief Neil Telford San Bruno Police Department
Captain Michael Mastarich California Highway Patrol – Redwood City	Chief Susan Manheimer San Mateo Police Department
Captain S.J. Whitten California Highway Patrol - San Francisco	Robert J. Foucrault SMCO Coroner
Chief Manuel Martinez Jr. Daly City Police Department	Sheriff Greg Munks SMCO Sheriff's Office
Chief Ron Davis East Palo Alto Police Department	Steve Wagstaffe SMCO District Attorney
Chief Matt Martell Foster City Police Department	Chief Mike Masaoni South San Francisco Police Department

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Missing Persons

328.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

328.1.1 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).

328.2 POLICY

The Atherton 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 Atherton 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).

328.3 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
- 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

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- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

328.4 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).

328.5 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).

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3. Any documents that may assist in the investigation, such as court orders regarding custody.
4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).

(h) When circumstances permit and if appropriate, attempt to determine the missing person's location through 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.

328.6 REPORT PROCEDURES AND ROUTING

Employees should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

328.6.1 SUPERVISOR RESPONSIBILITIES

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

(a) Reviewing and approving missing person reports upon receipt.
1. The reports should be promptly sent to the Records Center.

(b) Ensuring resources are deployed as appropriate.

(c) Initiating a command post as needed.

(d) Ensuring applicable notifications and public alerts are made and documented.

(e) Ensuring that records have been entered into the appropriate missing persons networks.

(f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

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

328.6.2 RECORDS CENTER 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).

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(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 Detective 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).

328.7 DETECTIVE BUREAU FOLLOW-UP

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

(a) Shall ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.

1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).

2. The investigator should meet with school officials 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 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).

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(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).

328.8 WHEN A MISSING PERSON IS FOUND

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

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

(a) Notification is made to California DOJ.

(b) The missing person's school is notified.

(c) Entries are made in the applicable missing person networks.

(d) Immediately notify the Attorney General's Office.

(e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation within 24 hours.

328.8.1 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.

328.9 CASE CLOSURE

The Detective Bureau supervisor may authorize the closure of a missing person case after considering the following:

(a) Closure is appropriate when the missing person is confirmed returned or evidence has matched an unidentified person or body.

(b) If the missing person is a resident of Atherton or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.

(c) If this department is not the lead agency, the case can be made inactivate if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks as appropriate.

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(d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

328.10 TRAINING

Subject to available resources, the Training Manager should ensure that members of this department whose duties include missing person investigations and reports receive regular training that includes:

(a) The initial investigation:

1. Assessments and interviews
2. Use of current resources, such as Mobile Audio Video (MAV)
3. Confirming missing status and custody status of minors
4. Evaluating the need for a heightened response
5. Identifying the zone of safety based on chronological age and developmental stage

(b) Briefing of department members at the scene.

(c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).

(d) Verifying the accuracy of all descriptive information.

(e) Initiating a neighborhood investigation.

(f) Investigating any relevant recent family dynamics.

(g) Addressing conflicting information.

(h) Key investigative and coordination steps.

(i) Managing a missing person case.

(j) Additional resources and specialized services.

(k) Update procedures for case information and descriptions.

(l) Preserving scenes.

(m) Internet and technology issues (e.g., Internet use, cell phone use).

(n) Media relations.

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San Mateo County Child Sexual Abuse Protocol (March, 2020)

329.1 POLICY

See attachment: San Mateo County Child Sexual Abuse Protocol (March 2020).pdf

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Public Alerts

330.1 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.

330.2 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.

330.3 RESPONSIBILITIES

330.3.1 MEMBER RESPONSIBILITIES

Members of the Atherton Police Department should notify their supervisor, Watch Commander, or Detective Bureau Supervisor as soon as practicable upon learning of a situation where public notification, a warning, or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person, or gathering information.

330.3.2 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 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

330.4 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.

330.4.1 CRITERIA FOR AMBER ALERT

The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

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(a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.

(b) The victim is 17 years of age or younger, or has a proven mental or physical disability.

(c) The victim is in imminent danger of serious injury or death.

(d) There is information available that, if provided to the public, could assist in the child's safe recovery.

330.4.2 PROCEDURE FOR AMBER ALERT

The supervisor in charge will ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the child:

1. The child's identity, age and description
2. Photograph if available
3. The suspect's identity, age and description, if known
4. Pertinent vehicle description
5. Detail regarding location of incident, direction of travel, potential destinations, if known
6. Name and telephone number of the 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.

(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)

330.5 BLUE ALERTS

Blue Alerts may be issued when an officer is killed, injured or assaulted and the suspect may pose a threat to the public or other law enforcement personnel.

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Public Alerts

330.5.1 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.

330.5.2 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
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

330.6 SILVER ALERTS

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing (Government Code § 8594.10).

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330.6.1 CRITERIA FOR SILVER ALERTS

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

(a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired.

(b) The department has utilized all available local resources.

(c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.

(d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

330.6.2 PROCEDURE FOR SILVER ALERT

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

330.7 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.

If the Watch Commander or Detective 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.

The Atherton 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.

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Public Alerts

330.8 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).

330.8.1 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.

330.8.2 PROCEDURE

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

330.9 YELLOW ALERT

A Yellow Alert may be issued when a person is killed due to a hit-and-run incident and the department has specified information concerning the suspect or the suspect's vehicle (Government Code § 8594.15).

330.9.1 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 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 the likelihood that an activation would reasonably lead to the apprehension of a suspect.

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330.9.2 PROCEDURE FOR YELLOW ALERT
Requests for a Yellow Alert shall be made through the California Highway Patrol (Government Code § 8594.15).

330.10 FEATHER ALERT

A Feather Alert may be issued when an indigenous person is reported missing under unexplained or suspicious circumstances (Government Code § 8594.13).

330.10.1 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 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.

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

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Victim and Witness Assistance

332.1 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.

332.2 POLICY

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

332.3 CRIME VICTIM LIAISON

The Detective Sergeant shall 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 Atherton 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.

332.3.1 CRIME VICTIM LIAISON DUTIES

The crime victim liaison is specifically tasked with the following:

(a) Developing and implementing written procedures for notifying and providing forms for filing with the California Victim Compensation Board (CalVCB) to crime victims, their dependents, or family. Access to information or an application for victim compensation shall not be denied based on the victim's or derivative victim's designation as a gang member, associate, or affiliate, or on the person's documentation or immigration status (Government Code § 13962; 2 CCR 649.35; 2 CCR 649.36).

(b) Responding to inquiries concerning the procedures for filing a claim with CalVCB (2 CCR 649.36).

(c) Providing copies of crime reports requested by CalVCB or victim witness assistance centers. Disclosure of reports must comply with the Records Maintenance and Release Policy.

(d) Annually providing CalVCB with the crime victim liaison's contact information (Government Code § 13962).

(e) Developing in consultation with sexual assault experts a sexual assault victim card explaining the rights of victims under California law (Penal Code § 680.2).

1. Ensuring that sufficient copies of the rights of sexual assault victim card are provided to each provider of medical evidentiary examinations or physical examinations arising out of sexual assault in the Atherton Police Department jurisdiction (Penal Code § 680.2).

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(f) Providing information required by Penal Code § 679.09 of a deceased minor to a parent or guardian of the minor whose death is being investigated.

1. In cases where the parent or guardian of the deceased minor cannot be located, information required by Penal Code § 679.09 shall be provided to the victim's immediate family, upon their request.

332.3.2 SUPERVISOR RESPONSIBILITY

It is the responsibility of any supervisor approving a written report where the victim of a crime has sustained injury to ensure that information is included to document the proper advisement being made or the fact that such advisement could not be accomplished. The Detective Supervisor is then responsible to ensure that the proper advisement is accomplished and properly documented as the follow-up investigation is conducted.

332.4 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.

332.4.1 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).

332.5 VICTIM INFORMATION

The Special Services Coordinator in charge of forms shall ensure that victim information handouts are available and current. These should include as appropriate:

(a) Shelters and other community resources for victims of domestic violence.

(b) Community resources for victims of sexual assault.

(c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).

(d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).

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(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).

332.6 WITNESSES

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

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

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Hate Crimes

334.1 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 Atherton 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).

334.1.1 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

334.2 POLICY

It is the policy of this department to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This department will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this department should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All officers are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief of Police or other command-level officer to whom the Chief of Police formally delegates this responsibility.

334.3 PLANNING AND PREVENTION

In order to facilitate the guidelines contained within this policy, department members will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Department personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented as part of an overall strategy to prevent hate crimes.

334.3.1 HATE CRIMES COORDINATOR

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

(a) Meeting with residents in target communities to allay fears; emphasizing the department's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.

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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 Training Manager 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 Center for mandated reporting to the Department of Justice.

1. Ensure the California Department of Justice crime data is posted monthly on the department website (Penal Code § 13023).

(l) Reporting any suspected multi-mission extremist crimes to the 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 Center Policy.

(m) Maintaining the department'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'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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334.3.2 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

(a) Dissemination of correct information.

(b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.

(c) The ability to request information regarding the commission of the crimes from the victimized community.

Information or records relating to hate crimes subject to public disclosure shall be released as provided by the Records Maintenance and Release Policy or as allowed by law. In accordance with the Media Relations Policy, the supervisor, public information officer, or the authorized designee should be provided with information that can be responsibly reported to the media. When appropriate, the department spokesperson should reiterate that hate crimes will not be tolerated, will be investigated seriously, and will be prosecuted to the fullest extent of the law.

The Department should consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

- Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- Inform the community of the impact of these crimes on the victim, the victim’s family, and the community, and of the assistance and compensation available to victims.
- Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- Provide the community with ongoing information regarding hate crimes and/or hate incidents.

334.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

334.4.1 INITIAL RESPONSE

First responding officers should know the role of all department personnel as they relate to the department's investigation of hate crimes and/or incidents. Responding officers should evaluate 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 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'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.

334.4.2 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, 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.

(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.

334.4.3 SUPERVISION

The supervisor shall confer with the initial responding officer and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

(a) Provide immediate assistance to the crime victim by:

1. Expressing the department's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
2. Expressing the department's interest in protecting victims' anonymity (confidentiality forms, Government Code § 7923.615) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a department chaplain, as well as community service 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.

334.5 TRAINING

All members of this department 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.

334.6 APPENDIX

See attachments:

Statutes and Legal Requirements.pdf

Hate Crime Checklist.pdf

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Rules of Conduct

336.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Atherton Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

336.2 POLICY

The continued employment or appointment of every member of the Atherton Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

336.3 DIRECTIVES AND ORDERS

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

336.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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

336.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

(a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.

(b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

(c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.

(d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

336.4 GENERAL STANDARDS

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

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

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

336.4.1 INFORMAL COUNSELING

Informal counseling is appropriate for correction of first-time, minor deficiencies in performance or minor infractions of the orders, rules and regulations of this Department or the Town of Atherton.

336.4.2 DOCUMENTED ORAL COUNSELING

Supervisors will document oral counseling in cases where minor violations of Department rules and procedures are repetitive in number or when the employee, during the counseling session, indicates a resistance to the counseling provided. Oral counseling may also be documented in the employee's performance appraisal. Management is required to look at documented counseling as being lesser in severity than a written reprimand.

336.4.3 WRITTEN REPRIMAND

A written reprimand is a formal notification to an employee regarding their failure to meet reasonable standards in their work or conduct, or a demonstration of a performance deficiency requiring immediate improvement.

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336.4.4 SUSPENSION, DEMOTION, AND TERMINATION
These are punitive actions involving significant or repetitive violations of conduct or performance.

336.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

336.5.1 LAWS, RULES AND ORDERS

(a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or Town manuals.

(b) Disobedience of any legal directive or order issued by any department member of a higher rank.

(c) Violation of federal, state, local or administrative laws, rules or regulations.

336.5.2 ETHICS

(a) Using or disclosing one’s status as a member of the Atherton Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for nondepartment business or activity.

(b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.

(c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).

(d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.

(e) Offer or acceptance of a bribe or gratuity.

(f) Misappropriation or misuse of public funds, property, personnel or services.

(g) Any other failure to abide by the standards of ethical conduct.

336.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM
Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

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336.5.4 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.

(e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

(f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

336.5.5 ATTENDANCE

(a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.

(b) Unexcused or unauthorized absence or tardiness.

(c) Excessive absenteeism or abuse of leave privileges.

(d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

336.5.6 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.

    (a) Members of this department shall not disclose the name, address, or image of any victim of human trafficking except as authorized by law (Penal Code § 293).

(b) Disclosing to any unauthorized person any active investigation information.

(c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.

(d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.

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(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.

336.5.7 EFFICIENCY

(a) Neglect of duty.

(b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.

(c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.

(d) Unauthorized sleeping during on-duty time or assignments.

(e) Failure to notify the Department within 24 hours of any change in residence address or contact numbers.

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

336.5.8 PERFORMANCE

(a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any workrelated investigation.

(b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.

(c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department related business.

(d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

(e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.

(f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

1. While on department premises.

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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 Town policy, the memorandum of understanding, or the Chief of Police.

(h) Engaging in political activities during assigned working hours except as expressly authorized by Town policy, the memorandum of understanding, or the Chief of Police.

(i) Any act on or offduty that brings discredit to this department.

336.5.9 CONDUCT

(a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.

(b) Unreasonable and unwarranted force to a person encountered or a person under arrest.

(c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.

(d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

(e) Engaging in horseplay that reasonably could result in injury or property damage.

(f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the Town.

(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.

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(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.

336.5.10 SAFETY

(a) Failure to observe or violating department safety standards or safe working practices.

(b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).

(c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

(d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.

(e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.

(f) Unsafe or improper driving habits or actions in the course of employment or appointment.

(g) Any personal action contributing to a preventable traffic collision.

(h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

336.5.11 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.

336.6 TOWN OF ATHERTON APPEAL PROCEDURE - ORDINANCE 597

Listed below is the Town of Atherton Appeal Procedure, Ordinance 597. This ordinance was passed and adopted at the Town of Atherton Council Meeting on October 17, 2012.

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Rules of Conduct

336.6.1 ORDINANCE 597 - PAGE 1
See attachment: Ordinance 597A.jpg

336.6.2 ORDINANCE 597 - PAGE 2
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336.6.3 ORDINANCE 597 - PAGE 3
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336.6.4 ORDINANCE 597 - PAGE 4
See attachment: Ordinance 597D.jpg

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Information Technology Use

338.1 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.

338.2 POLICY

It is the policy of the Atherton 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.

338.3 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.

The Department shall not require a member to disclose a personal username or password for accessing personal social media or to open a personal social website; however, the Department may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

338.4 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.

338.4.1 SOFTWARE

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

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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.

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

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

338.4.2 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.

338.4.3 INTERNET USE

Refer to the Town of Atherton's Human Resources Manual.

338.4.4 OFF-DUTY USE

Refer to the Town of Atherton's Human Resources Manual.

338.5 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 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.

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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.

338.6 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.

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Report Writing Policy

339.1 INTRODUCTION

Atherton Police Department reports will be factual. Reports will focus not only on the “corpus delecti” of crimes, but also on details that will allow reports to be used for other purposes, including the future defense of a Department member, or the organization, in a liability suit. Police Officers need to write reports in a manner that allows them to answer very specific questions with very specific answers five years or more after the incident.

The elements the prosecutor needs in order to prove a case “beyond a reasonable doubt” may be different from those needed by a defense attorney in a civil liability case in order to prove by a “preponderance of the evidence” that an incident was handled lawfully and within policy.

339.2 CIVIL LIABILITY THRESHOLD INCIDENTS

Threshold incidents are the types that have proven to be more likely to result in civil litigation. These incidents may require more detailed documentation. The more time that passes after a threshold incident occurs, the more difficult it becomes to prove what happened. Cases are often lost not because of bad conduct, but because of insufficient, or nonexistent documentation. Examples of threshold incidents include:

(a) Injuries to persons caused by us (however slight)

(b) Deprivation of liberty caused by us (however short)

(c) Damage to property caused by us (however trivial)

(d) Death or major injury involving Town property

(e) Anytime someone declares he/she will file a lawsuit against us

339.3 WRITING STYLE AND FORMAT GUIDELINES

PAST TENSE, FIRST PERSON

Reports will be written in the past tense, first person. Examples:

Correct: “I responded to the call.”

Incorrect: “The investigating officer responded to the call.”

ACTIVE VOICE

Reports should be written in the active voice when possible. Examples:

Correct: He threw the trash out the window.

Incorrect: “The trash was thrown out the window.”

USING NAMES

Within each section, the first time someone is referred to, his/her RIMS connection to the case should be written out, and the full name should be used (i.e. SUSPECT ARRESTED WINSTON

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ANDERSON CHURCHILL). Subsequently, the connection may be abbreviated and the last name may be used (i.e. SA/CHURCHILL). If there is more than one person with the same last name, first initials may be used to differentiate among them.

If the use of first initials and last names becomes cumbersome (due to multiple relatives being involved, or a particularly complex last name) first names alone may be used, provided that there is no confusion regarding the party to whom the name refers. Clarity and ease of reading should be the priorities.

FONT

Since serif fonts (such as Times New Roman) are easier to read, these are preferred. The font size should be no smaller than 11 point. All upper case type should NOT be used, except for the purposes of highlighting a particular name, title, word, or phrase.

FORMATTING

Reports should be single-spaced. New paragraphs may be delineated by indenting, or double-spacing (but not both.)

339.4 REPORT SECTIONS

The report should be written in chronological order, utilizing the following section headings as necessary to support the logical documentation of the incident (except as specified in 342.2.7).

DATE AND TIME

Document the date the officer is writing the report. The time need only be supplied if multiple supplements are written on the same day by the same officer.

SYNOPSIS

The synopsis should normally be a single paragraph of less than ten sentences. An investigator, or deputy district attorney should be able to quickly gain a basic understanding of what occurred, the status of the investigation and the disposition of the suspect. Excessive details are not necessary, or desirable in this section. Example:

On 7/30/17, at approximately 0849 hours, in the Atherton Caltrain Station parking lot, an auto burglary occurred. I arrested SUSPECT ARRESTED PIPPY ANNE LONGSTOCKINGS during the commission of the crime, and booked her into the San Mateo County Jail for 459 PC. SA/ LONGSTOCKINGS confessed to the burglary. The stolen property was recovered, photographed, and returned to the victim.

NARRATIVE

This section is a chronological account of an officer's actions. If it supports the logical "telling of the story," it is appropriate to move from the narrative section, to other sections (see below) then back again. In order to make it clear when the officer is returning to the narrative section, other sections may be indented, or the section may be prefaced with, "NARRATIVE (Continued)." The narrative should minimally include the following information.

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Report Writing Policy

Preliminary Information:

The opening paragraph will include the date, time, type of incident, and how you became involved. Make sure the date and time match the information in RIMS. Consider including details such as the number of officers responding, conversations with radio and/or responding officers, voice and/or CAD updates while in route, requests for additional resources, code of response, and time of arrival on scene.

Response and Observations:

Include whom you contacted and how you identified them, your actions and observations once on scene, a description of the crime scene and steps you took to secure it. Describe property taken (referencing the RIMS property numbers). Document actions taken by others, including allied agencies. Document any use of force, and provide a detailed account of what transpired.

Investigative Steps:

Document the “who, what, where, when, how, and how many.” Include steps you took to locate involved parties, evidence, etc.

Disposition of Involved Parties and Their Property:

Document whether involved parties were cited, released, transported to the hospital, Juvenile Hall, County Jail, First Chance, etc. Include the status of their personal property, vehicles, bicycles, etc.

STATEMENTS

In a paragraph prior to any statement given by the witness, document the following: Where and when the statement was taken, willingness (or not) of the witness to talk, if Miranda advisement was given/waived and exactly how that was done. If the suspect is a juvenile, document whether you gave a Miranda advisement before or after questioning. Statements can be either question & answer, verbatim, summarized, or a combination. Quotation marks will be used to denote the witness’s or suspects’ verbatim words.

INJURIES

Describe and photograph any injury, however slight, sustained by victims, suspects, witnesses and/or officers. Include medical treatment received and/or ongoing.

EVIDENCE

Describe any evidence seized and the disposition, including the locker number you use (if appropriate). If evidence was returned to the rightful owner, document how you established ownership. If you recorded any interviews (video or audio), or took photographs, mention this evidence as well.

RECOMMENDATIONS

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Report Writing Policy

This section captures your recommendation for case follow-up or next actions. You might include forwarding the case to the DA, CPS, APS, etc. It also might include forwarding evidence to the SMCO crime lab or returning property to an involved party.

This section would also include additional internal follow-up steps that might be required by yourself or other officers, including the Investigations Unit. It might also be the place where you declare the case should be suspended and a justification for your recommendation.

This section is not meant for you to recommend charges the DA should file. Those charges should be listed on the face page. It is implicit in forwarding the case to the DA for prosecution that you are recommending the charges listed on the face page be considered.

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Report Preparation

340.1 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.

340.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who dictate reports shall use appropriate grammar, as content is not the responsibility of the typist. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

340.2 REQUIRED REPORTING

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

340.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

(a) All arrests

(b) All felony crimes

(c) Non-Felony incidents involving threats or stalking behavior

(d) Situations covered by separate policy. These include:

1. Use of Force Policy
2. Domestic Violence Policy

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3. Child Abuse Policy
4. Senior and Disability Victimization Policy
5. Hate Crimes Policy
6. Suspicious Activity Reporting Policy

(e) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., dispatch log).

340.2.2 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

340.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

(a) Sudden or accidental deaths.

(b) Suicides.

(c) Homicide or suspected homicide.

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(d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).

(e) Found dead bodies or body parts.

340.2.4 INJURY OR DAMAGE BY TOWN PERSONNEL

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

340.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this department shall require a report when:

(a) The injury is a result of drug overdose

(b) Attempted suicide

(c) The injury is major/serious, whereas death could result

(d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

340.2.6 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 Center shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (Penal Code § 23685).

340.2.7 USE OF SHORT FORMAT NARRATIVE REPORTING

Officers may utilize a short-format report, with only the NARRATIVE heading under the following circumstances:

(a) Lost property.

(b) Misdemeanor thefts of property, other than firearms or materials that threaten public safety, when there is no suspect information, serial number or ability to trace the item.

(c) Misdemeanor vandalism with no suspect information and no hate crime implications.

(d) Vehicle burglaries with no suspect information or evidence.

(e) Stolen vehicle attempts with no suspect information or evidence.

(f) Annoying telephone calls with no suspect information.

(g) Identity theft without an identifiable suspect.

(h) Online or email fraud solicitations without an identifiable suspect and if the financial loss amount classifies the crime as a misdemeanor.

(i) Other reports that are for informational purposes only, with no investigative leads, at the discretion of a supervisor.

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Report Preparation

340.3 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.

340.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS

No reports are to be handwritten. All police reports, including traffic collision reports, are to be completed in the RIMS Computer System. This policy does not include miscellaneous additional forms which are often completed by hand and attached to the original report.

340.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS

County, state and federal agency forms may be block printed as appropriate.

340.4 REPORT CORRECTIONS

Watch Commanders shall review reports for content and accuracy. During the review and approval process, Watch Commanders are allowed to make spelling, grammar, and punctuation changes to a report if needed. If corrections are needed to the narrative section of a report due to the lack of information or improper information, the Watch Commander should either:

(a) Make the changes on the original report, or make a list of changes on a separate piece of paper, and hand these items back to the officer for correction.

(b) Go over the report with the officer present and make the necessary changes with the officer's approval.

(c) Supervisors are encouraged to use the RIMS case management system.

The Watch Commander shall tell the officer who authored the report of any changes made to the narrative section. It shall be the responsibility of the originating officer to ensure that any report returned for correction is completed and resubmitted in a timely manner.

Officers who are in-charge of a shift are not to approve reports. Unless exigent circumstances are present, reports will be held for the next available Sergeant.

340.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Center for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Center may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

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Media Relations

342.1 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.

342.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. In situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Commanders, Watch Commanders, and designated Public Information Officers (PIOs) may prepare and release information to the media in accordance with this policy and the applicable laws regarding confidentiality.

342.2.1 POLICY

It is the absolute policy of this Department to assist all accredited members of the news media in their effort to gather and disseminate factual information of public interest pertaining to activities of the department, as long as these activities do not unduly interfere with Departmental operation, infringe upon individual rights or violate the law.

342.3 ACCESS

Authorized media representatives shall be provided access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities as required by law.

Access by the media is subject to the following conditions (Penal Code § 409.5(d)):

(a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.

(b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.

    1. Based upon available resources, reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the PIO or other designated spokesperson.

(c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved member (Government Code § 3303(e)).

(d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

342.3.1 CRITICAL OPERATIONS

A critical incident or tactical operation should be handled in the same manner as a crime scene, except the media should not be permitted within the inner perimeter of the incident, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize

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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.

342.3.2 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft pose a threat to public or member safety or significantly hamper incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration (FAA) should be contacted (14 CFR 91.137).

342.4 RELEASE OF INFORMATION BEFORE AN ARREST

(a) **Release:**

1. A description of the exact offense, including a brief summary of events.
2. Location and time of offense.
3. Injuries sustained or damage resulting from the action.
4. Identity of the victim, except for victims of sex crimes and juveniles.
5. Whether or not there are suspects.
6. Information about unidentified suspects, such as a physical description or vehicle description.
7. Identification of suspects for whom a warrant has been issued.
8. Criminal background of fugitive suspect(s) when the public should be alerted to the immediate threat danger.
9. Method of complaint (officer observation, citizen, warrant, indictment).
10. Length of investigation and name of officer or detective in charge of investigation (undercover operations may require withholding the officer's identity).

(b) **Non-release:**

1. Identity of suspects who are interviewed but not charged.
2. Identity of witnesses where such information could subject them to danger or extreme embarrassment.
3. Identity of sex crime victims (general information is sufficient: race, sex, age).
4. Exact address of a sex offense, where such information could lead to the identity of the victim.
5. Exact identifying information about the weapon or other physical evidence.

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6. Any information that could be known only to the guilty party, i.e. "investigative keys".
7. Information about valuable items not stolen.
8. Conjecture about suspects or fugitives.
9. The amount taken in a robbery or burglary.
10. Identity of victims in death investigations until notification of next of kin has been made.
11. Misleading or false information ("planted stories").

342.5 RELEASE OF INFORMATION AFTER AN ARREST

(a) **Release:**

1. Time and place of arrest.
2. Defendant's name, age, residence, usual occupation, marital status, and similar background.
3. The exact charge.
4. Facts and circumstances relating to the arrest, such as resistance, pursuit, possession or use of a weapon, description of contraband discovered.
5. Identity of the agency or unit responsible for the arrest, including the name of the arresting officer (undercover operations may require withholding the officer's identity).
6. Duration of the investigation.
7. Pre-trial release or detention arrangements (including amount of bond, location of detention).
8. Scheduled dates for various stages in the judicial process, if known.

(b) **Non-release:**

1. Name of the defendant's employer.
2. Comments about the character or reputation of the defendant.
3. Names of juvenile defendants.
4. Prior criminal record of defendant (Records Section may release such information on the request of the news media in accordance with state and federal statutes).
5. Information about the existence or content of a confession, admission, or statement by the accused.

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6. The refusal of the accused to make a statement.
7. The refusal of the accused to submit to tests or examinations.
8. Results of any exams or tests.
9. Description or results of laboratory examination of physical evidence.
10. Reenactment of the crime.
11. Revelation that the defendant directed investigators to the location of a weapon, contraband, or other evidence.
12. Any remarks about the assumed guilt or innocence of the defendant.
13. Comments about the credibility of the testimony.
14. Whether the information for the arrest was derived from an informant.

342.6 PROHIBITIONS ON RELEASE OF INFORMATION AND/OR DENIAL OF ACCESS

(a) The Records Section will give copies of official reports to members of the media only. Such release will follow Records Section procedure and state and federal statutes.

(b) News media interviews of subjects in custody are not granted without first consulting the prosecuting attorney having jurisdiction over the matter.

(c) Department personnel may not prevent brief comments by arrestees to reporters while in public places, e.g. at the arrest scene or in the lobby.

(d) Photographs of suspects in custody shall not be released to the news media without first consulting the prosecuting attorney having jurisdiction over the matter. The news media shall not be allowed to photograph subjects in custody within areas of Department buildings off limits to the public at large. Personnel may not prevent the media the photographing subjects in custody while in public places, e.g. while seated in a patrol car or being escorted through the lobby.

(e) News media personnel shall not be allowed access to private property unless granted permission by the property owner, his agent, or other persons in charge of the premises.

(f) Members of the news media shall not be allowed access to any area wherein there lies the possibility evidence may be damaged, destroyed, or altered, until such time such evidence has been photographed, processed, collected and removed by the appropriate law enforcement personnel.

(g) Members of the news media shall not be allowed access to any area whereby such access would obviously disrupt tactical law enforcement plans or operations, or would jeopardize the life of, or present the substantial possibility of injury to, any Department personnel or citizen other than the member of the news media themselves.

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(h) A member of the news media should not be prevented from having access to an area solely due to the possibility of injury or death to himself or herself. If that is the only consideration, the member of the news media should be advised of the danger, and allowed to make the decision to enter on their own.

(i) Anytime a representative of the news media is denied access to certain information, as outlined above, he or she shall be given a courteous explanation of the reasons for such denial.

342.7 POLICY

It is the policy of the Atherton 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.

342.8 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.

342.9 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 make any comment or release any official information to the media without prior approval from a supervisor or the PIO.

(b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.

(c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police. Under these circumstances the member should direct the media to the agency handling the incident.

342.10 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

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Records policies). When in doubt, authorized and available legal counsel should be consulted prior to releasing any information.

342.10.1 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.

342.11 RELEASE OF INFORMATION

The Department may routinely release information to the media without receiving a specific request. This may include media releases regarding critical incidents, information of public concern, updates regarding significant incidents, or requests for public assistance in solving crimes or identifying suspects. This information may also be released through the department website or other electronic data sources.

342.11.1 INFORMATION LOG

The Department will maintain a daily information log of significant law enforcement activities. Log entries shall only contain information that is deemed public information and not restricted or confidential by this policy or applicable law. Upon request, the log entries shall be made available to media representatives through the Watch Commander.

The daily information log will generally include:

(a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals involved in crimes occurring within this jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation, or the information is confidential (e.g., juveniles or certain victims).

(b) The date, time, location, case number, name, birth date, and charges for each person arrested by this department, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation or the information is confidential (e.g., juveniles).

(c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident.

At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim, or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has

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been arrested for a serious felony and the release of such information has been approved by the Watch Commander (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Public Records Act (see the Records Maintenance and Release Policy).

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Subpoenas and Court Appearances

344.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Atherton Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

344.2 POLICY

Atherton Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

344.3 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.

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)).

344.3.1 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 Town Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

(a) Any civil case where the Town 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.

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(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 Atherton Police Department.

(e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Atherton 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.

344.3.2 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.

344.3.3 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.

344.3.4 REQUESTING A CONTINUANCE

Any member who receives a subpoena for a criminal court date he or she cannot attend shall complete the "Declaration for Court Continuance" form. Upon completing the form, it will be delivered to the District Attorney's Office for submission.

For traffic court, if you determine there is a scheduling conflict for your court date and you need a continuance, you shall:

1. Write a notice to the clerk of the traffic court requesting a continuance
   - The notice shall be written on department letterhead
   - Place the notice in the Court Officer box for delivery to traffic court
2. Mail a copy of the notice to the defendant
3. Route a copy of the notice to your supervisor

344.4 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.

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344.5 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.

344.5.1 COURTROOM ATTIRE

Employees shall dress in uniform or business professional attire.

(a) Employees attending Traffic Court will wear the uniform of the day or business professional attire.

(b) Employees attending Criminal Court will wear the uniform of the day or business professional attire.

(c) Uniform shorts shall not be worn to Traffic Court or Criminal Court.

(d) Business professional attire is as follows:

1. Men - Coat and tie
2. Women - Dress or pants with a jacket

344.6 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.

344.6.1 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.

344.7 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.

344.8 ELECTRONIC SUBPOENA POLICY (SAN MATEO COUNTY E-SUBPOENA)

Pursuant to an agreement between the District Attorney of San Mateo County and the Atherton Police Department, the District Attorney's Office will now prepare and serve criminal subpoenas upon Atherton Police Department employees electronically. Please note this does not relate to criminal subpoenas for citizens, nor does it apply to traffic subpoenas.

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Subpoenas and Court Appearances

Notification to employees will consist of an e-mail to the employee's Town of Atherton e-mail account. Employees are directed to access their e-mail at least once a day while on duty.

Upon notification of a subpoena, employees will access the link (https://ca.hostedbykarpel.com/CASanMateoeSubpoena/Login.aspx) to the portal and view the subpoena. Proof of service occurs electronically the moment the employee opens the link to the subpoena. Employees should view all subpoenas without delay. Employees can print copies of subpoenas from the portal for their records.

Employees should access the link before appearing in court to avoid unnecessary court attendance.

If an employee is unable to attend criminal court due to a preplanned vacation, training, or other approved absences, he/she must prepare an "Officer Declaration for Court Continuance" within 48 hours of service, via the link. The declaration must then be printed and placed with a printout of the subpoena in the court officer's box for return to the DA's Office.

Supervisors will monitor subpoenas to ensure they are served in a timely manner. In cases where there is an extended absence or situation preventing the employee from being served, supervisors must immediately complete the "Officer Declaration for Court Continuance" and place it, along with a printout of the subpoena, in the court officer's box for return to the DA's Office.

Employees absent from work, either on days off or other leave, may be contacted by the court officer for service. Employees who are off work are not expected to check their email for subpoenas.

Criminal subpoenas will be entered into PlanIt by the court officer and/or dispatch staff.

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Reserve Officers

346.1 PURPOSE AND SCOPE

The Atherton 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.

346.2 SELECTION AND APPOINTMENT OF RESERVE POLICE OFFICERS

The Atherton 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.

346.2.1 PROCEDURE

All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

Before appointment to the Police Reserve Unit, an applicant must have completed, or be in the process of completing, a POST approved basic academy or extended basic academy.

346.2.2 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.

346.2.3 RESERVE OFFICER EQUIPMENT

Equipment for reserve officers is provided as follows:

(a) 1 shirt (long or short sleeved)

(b) 1 pair of pants

(c) 1 jacket

(d) 1 hat

(e) 1 duty belt with all leather gear

(f) 1 name tag

(g) 1 pair of boots

(h) 1 ballistic vest

346.2.4 EMPLOYEES WORKING AS RESERVE OFFICERS

Qualified employees of this department, when authorized, may also serve as reserve officers. However, the Department must not utilize the services of a reserve or volunteer in such a way that it would violate employment laws or labor agreements (e.g., a detention officer working as a reserve officer for reduced or no pay). Therefore, the Reserve Coordinator should consult the

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Personnel Department prior to an employee serving in a reserve or volunteer capacity (29 CFR 553.30).

346.3 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.

346.3.1 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.

346.3.2 RESERVE OFFICER ASSIGNMENTS

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

346.3.3 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

346.4 FIELD TRAINING

Penal Code § 832.6 requires Level II reserve officers, who have not been released from the immediate supervision requirement per the Completion of the Formal Training Process subsection, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.

346.4.1 TRAINING OFFICERS

Officers of this Department who demonstrate a desire and ability to train reserve officers, may train the reserves during Phase II, subject to Watch Commander approval.

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Reserve Officers

346.4.2 PRIMARY TRAINING OFFICER

Upon completion of the Academy, reserve officers will be assigned to a primary training officer. The reserve officer will be assigned to work with his/her primary training officer during the first 160 hours of training. This time shall be known as the Primary Training Phase.

346.4.3 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 Atherton 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.

346.4.4 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.

346.4.5 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.

346.4.6 THIRD TRAINING PHASE

Phase III of training shall consist of 24 hours of additional on-duty training. For this training phase, the reserve officer will return to his/her original primary training officer. During this phase, the training officer will evaluate the reserve officer for suitability to graduate from the formal training program.

At the completion of Phase III training, the primary training officer will meet with the Reserve Coordinator. Based upon the reserve officer's evaluations, plus input from the primary training officer, the Reserve Coordinator shall decide if the reserve officer has satisfactorily completed his/her formal training. If the reserve officer has progressed satisfactorily, he/she will then graduate from the formal training process. If his/her progress is not satisfactory, the Reserve Coordinator will decide upon the appropriate action to be taken.

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Reserve Officers

346.5 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 Commander.

346.5.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the 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 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.

346.5.2 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.

346.5.3 IDENTIFICATION OF RESERVE OFFICERS

All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

346.5.4 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this Department.

346.5.5 INVESTIGATIONS AND COMPLAINTS

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Commander.

Reserve officers are considered at-will employees. Government Code § 3300 et seq. applies to reserve officers with the exception that the right to hearing is limited to the opportunity to clear their name.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

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Reserve Officers

346.5.6 RESERVE OFFICER EVALUATIONS

While in training reserves will be continuously evaluated using standardized daily and weekly observation reports. The reserve will be considered a trainee until all of the training phases have been completed. Reserves having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve.

346.6 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.

346.6.1 CARRYING WEAPON ON DUTY

Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on-duty. It is the policy of this Department to allow reserves to carry firearms only while on-duty or to and from duty. Authorization from the Chief of Police is required for a Reserve Officer to carry a weapon while off-duty.

346.6.2 RESERVE OFFICER FIREARM TRAINING

All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual, with the following exceptions:

(a) All reserve officers are required to qualify at least quarterly.

(b) Reserve officers may fire at the Department approved range more often with the approval of the Reserve Coordinator.

(c) Should a reserve officer fail to qualify quarterly, that reserve officer will not be allowed to carry a firearm until he/she has reestablished his/her proficiency.

346.7 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL

The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

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Outside Agency Assistance

348.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

348.2 POLICY

It is the policy of the Atherton Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

348.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Watch Commander for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Watch Commander may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this department will not ordinarily be booked at this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

348.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

348.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented with an incident number or as directed by the Watch Commander.

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348.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Commander or the authorized designee.

The documentation should include:

(a) The conditions relative to sharing.

(b) The training requirements for:

1. The use of the supplies and equipment.
2. The members trained in the use of the supplies and equipment.

(c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to Dispatch and the Watch Commander to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Training Manager should maintain documentation that the appropriate members have received the required training.

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911 Hang-Up Telephone Calls

350.1 PURPOSE AND SCOPE

This policy establishes guidelines for the handling of 911 hang-up telephone calls.

350.2 POLICY

When a reasonable location of a caller can be determined (i.e.: a street address, park or school), Officers will be dispatched to any 911 hang-up telephone calls received. This includes 911 hang-up telephone calls from cell phones.

A Dispatcher shall attempt to call the number back to confirm the need for police or fire response. Dispatchers shall utilize mapping and/or location enhancement technology to determine locations for cell phone callers who do not or are unable to provide their location.

Dispatchers shall inform responding Officers of any information regarding the callback attempt (i.e.: busy signal, no answer, child playing on the phone, caller advising it was a mistake, caller refusing to provide information). Only Patrol Supervisors have the discretion to cancel a response to a 911 hang-up telephone call once a location for the caller has been determined.

Dispatchers shall create a CAD incident for all 911 hang-up telephone calls received and document the non-dispatch of any 911 hang-up telephone calls by stating, in the narrative section of the incident, the reason the incident was not dispatched. Incidents that are not dispatched shall be closed with a disposition of “LN.”

The location for incidents when it is not possible to ascertain a reasonable address (i.e.: cell site only) shall be noted in the narrative.

Information on the receipt of 911 hang-up telephone calls that are determined to be outside the jurisdiction of Atherton shall be given to the agency with jurisdiction over the determined, or likely location, of the caller (based on information received from mapping or directly from the caller).

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Text to 9-1-1 Calls

351.1 PURPOSE AND SCOPE

The purpose of this procedure is to establish a method for receiving and processing calls via the Comtech Software known as Text to 9-1-1.

351.2 POLICY

Each employee of the Communications Unit will be responsible for all duties described in the following procedure.

351.3 PROCEDURE

351.3.1 ACCESSING THE SYSTEM

In order for the Atherton Police Department's Communications Center to receive a text via the 9-1-1 system, a communications dispatcher must be logged into the system. All dispatchers shall be logged in at the start of their shift. The website to access the software will be automatically launched upon logging into the dispatch position. If the software fails to auto-launch, the following website should be accessed to log in: https://emediatcs.com (call taker/operator portal). Dispatchers will log in with their unique user name and password.

351.3.2 ANSWERING TEXT CALLS

Dispatchers will keep the Comtech window open during their shift. An audible alarm will ring from the software if a text into the 9-1-1 system is received. The text will appear in the window. The caller's phone number will be highlighted in the unassigned queue. Click on the phone number to initiate a text conversation. If none of the dispatchers answer the incoming call, the alert will continue to sound. The newest incoming line will be at the bottom of the list in queue.

The dispatcher's initial communication with the caller shall be the utilization of the pre-programed text response: Atherton Police 9-1-1, what is the location of the emergency?

The dispatcher can choose to use the additional drop downs in the menu or type freehand by accessing the text box within a live call.

At this time, the dispatcher shall create an incident with the RIMS CAD, utilizing the location provided by the caller. If no location can be determined, a call will be made using the address of the police department. If dispatchers are unable to determine a nature, the type code of the incident will be "TEXT". When using the proper type code, within the body of the call "description" field, the first word will be TEXT. This will assist later with search capabilities.

All information provided by the caller shall be documented in the description and comments section of the incident. Officers will be dispatched in accordance to the priority of the call, and applicable standard call processing procedures.

At the time of the dispatch, dispatchers shall advise officers that the information received was via a text to 9-1-1.

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Text to 9-1-1 Calls

Dispatchers shall communicate with text callers utilizing full length words. Dispatchers shall not utilize abbreviations, acronyms, or texting lingo when communicating with text callers. Dispatchers shall request clarification from text callers upon the receipt of any ambiguous messages or phrases. Dispatchers shall not assume definitions of slang or abbreviations used by text callers.

If the dispatcher stops receiving text responses from the caller, the dispatcher shall, after a reasonable amount of time, prompt the caller by sending a text asking if the caller is still there. If the caller ends the text communication, the dispatcher will not receive a message advising the call has been ended.

Prior to ending calls with text callers, dispatchers shall advise the caller they will be ending the text session.

To take control of any session in “Other Active Sessions”:

- Click the phone number and send a text response to the texter.
- You must send a response to the texter in order for the session to move from the “other active sessions” to “my sessions” .

351.3.3 HANDLING OF MEDIA MESSAGES

Dispatchers have the additional options to provide the listed media retrieval phone number and message ID to the Watch Commander directly, or call and request the media be emailed to the Watch Commander for viewing.

351.3.4 IN-PROGRESS TEXT CALLS

Dispatchers shall keep any in-progress call received via text “open” until an officer arrives on scene. If a text conversation is “ended”, the only way to re-establish contact with the reporting party is via a voice call, unless the caller initiates another Text to 9-1-1 call.

351.3.5 VOICE CALL BACKS

Dispatchers shall not place a voice call back to a text caller if the safety of the caller or others is in question. If an officer makes a request for a dispatcher to place a voice call back to a text caller, the dispatcher shall advise the officer of any safety concerns, based on information received by the text session.

351.3.6 TRANSFERRING A TEXT CONVERSATION

Text conversations can **only** be transferred to agencies using the same software system. Follow the prompt for transferring the call, and check the drop down menu for the agencies you are looking for. The drop down will include agencies who are available to receive a transfer **and** on the same system.

Once the transfer is complete, you will receive a message in red which reads “This session was transferred”.

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Text to 9-1-1 Calls

351.3.7 LANGUAGE TRANSLATION OF TEXT CALLS

If there is a language barrier with a text caller, the dispatcher shall utilize the pre-programed text response: “Call 9-1-1 for a voice translator” (provided in both English and Spanish).

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Registered Offender Information

352.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Atherton 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.

352.2 POLICY

It is the policy of the Atherton 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.

352.3 REGISTRATION

The Detective Sergeant 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.

352.3.1 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.).

352.4 MONITORING OF REGISTERED OFFENDERS

The Detective Sergeant should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

(a) Efforts to confirm residence using an unobtrusive method, such as an Internet search or drive-by of the declared residence.

(b) Review of information on the California DOJ website for sex offenders.

(c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

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The Detective Sergeant should also establish a procedure to routinely disseminate information regarding registered offenders to Atherton Police Department personnel, including timely updates regarding new or relocated registrants.

352.5 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 Atherton Police Department's website. Information on sex registrants placed on the Atherton Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Records Supervisor may release local registered offender information to residents only in accordance with applicable law and in compliance with a California Public Records Act request (Government Code § 7920.000 et seq.; Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1).

352.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the internet website, to be released to a campus community (Penal Code § 290.01(d)):

(a) The offender’s full name

(b) The offender’s known aliases

(c) The offender’s sex

(d) The offender’s race

(e) The offender’s physical description

(f) The offender’s photograph

(g) The offender’s date of birth

(h) Crimes resulting in the registration of the offender under Penal Code § 290

(i) The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

352.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

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Registered Offender Information

(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

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Major Incident Notification

354.1 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.

354.2 POLICY

The Atherton Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

354.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and the Commander. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Traffic collisions with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shooting Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Atherton official
- Arrest of a department employee or prominent Atherton official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

354.4 SHIFT SUPERVISOR RESPONSIBILITY

The Shift Supervisor is responsible for making the appropriate notifications. The Shift Supervisor shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Shift Supervisor shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

354.4.1 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the Chief of Police shall be notified along with the Commander.

354.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the Detective Supervisor shall be contacted who will then contact the appropriate detective.

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Major Incident Notification

354.4.3 TRAFFIC BUREAU NOTIFICATION

In the event of a trafic collision involving a fatality or major injury, the Traffic Sergeant shall be notified who will then contact the appropriate collision investigator. The Traffic Sergeant will notify the Commander.

354.4.4 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.

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Notification of Employee Death or Injury

355.1 PURPOSE

The purpose of this order is to outline the method by which an officer will carry out the notification of an employee's death or serious injury.

355.2 POLICY

(a) It will be the policy of this Department that any employee who receives information concerning the death or serious injury of another Atherton Police Department employee, either on-duty or off-duty, shall immediately notify the Watch Commander. The Watch Commander will then contact the Chief of Police and the Commander.

(b) The family of an Atherton Police Department employee who has been killed or seriously injured shall be notified as directed by the Chief or Commander.

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Death Investigation

356.1 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.

356.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed). A supervisor shall be notified in all death investigations.

356.2.1 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.

(j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.

(k) Accidental poisoning (food, chemical, drug, therapeutic agents).

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(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.

356.2.2 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.

356.2.3 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 requested to make the notification. The Coroner needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.

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Death Investigation

356.2.4 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.

356.2.5 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form.

356.2.6 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Investigations Division shall be notified to determine the possible need for a detective to respond to the scene for further immediate investigation.

356.2.7 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)).

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Identity Theft

358.1 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.

358.2 REPORTING

(a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (Penal Code § 530.6) shall initiate a report for victims residing within the jurisdiction of this department when the crime occurred. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following:

1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim should be encouraged to promptly report the identity theft to the law enforcement agency where he or she resides.

(b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in this jurisdiction).

(c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).

(d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.

(e) The reporting officer should inform victims of identity theft that the California Identity Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement and other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code § 530.7). Information regarding the California Identity Theft Registry can be obtained by calling toll free (888) 880-0240.

(f) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

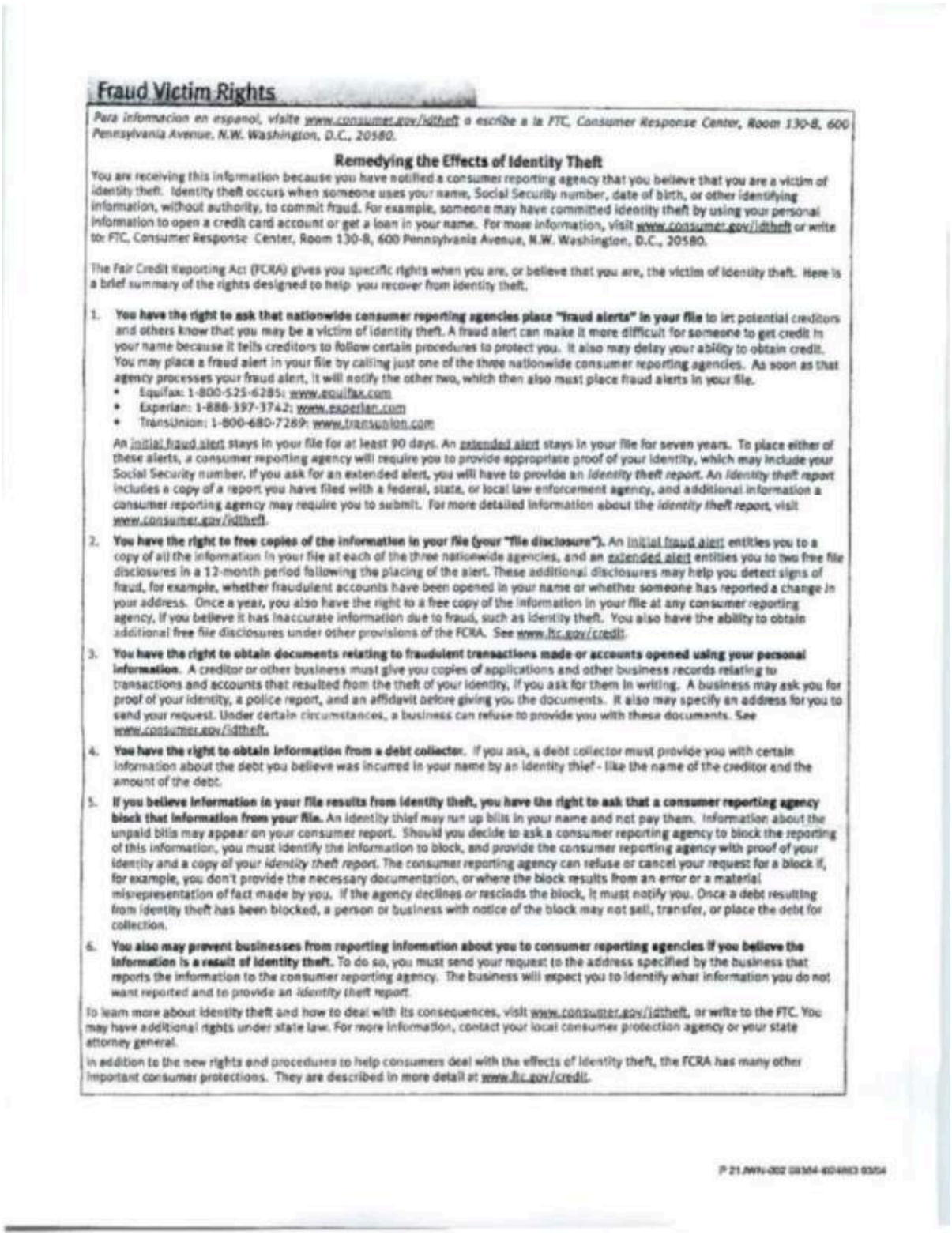
(g) The reporting officer shall provide the victim the Identity Theft Pamphlet published by the Atherton Police Department, as well as the Fraud Victim Rights handout from

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the Federal Trade Commission. Both documents provide victims resource information regarding Identity Theft.

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358.3 FRAUD VICTIM RIGHTS FORM



Fraud Victim Rights

Para información en español, visite www.consumer.gov/idtheft o escribe a la FTC, Consumer Response Center, Room 130-B, 600 Pennsylvania Avenue, N.W. Washington, D.C., 20580.

Remedying the Effects of Identity Theft

You are receiving this information because you have notified a consumer reporting agency that you believe that you are a victim of identity theft. Identity theft occurs when someone uses your name, Social Security number, date of birth, or other identifying information, without authority, to commit fraud. For example, someone may have committed identity theft by using your personal information to open a credit card account or get a loan in your name. For more information, visit www.consumer.gov/idtheft or write to: FTC, Consumer Response Center, Room 130-B, 600 Pennsylvania Avenue, N.W. Washington, D.C., 20580.

The Fair Credit Reporting Act (FCRA) gives you specific rights when you are, or believe that you are, the victim of identity theft. Here is a brief summary of the rights designed to help you recover from identity theft.

1. **You have the right to ask that nationwide consumer reporting agencies place "fraud alerts" in your file** to let potential creditors and others know that you may be a victim of identity theft. A fraud alert can make it more difficult for someone to get credit in your name because it tells creditors to follow certain procedures to protect you. It also may delay your ability to obtain credit. You may place a fraud alert in your file by calling just one of the three nationwide consumer reporting agencies. As soon as that agency processes your fraud alert, it will notify the other two, which then also must place fraud alerts in your file.
   - Equifax: 1-800-525-6285; www.equifax.com
   - Experian: 1-888-397-3742; www.experian.com
   - TransUnion: 1-800-680-7289; www.transunion.com

   An initial fraud alert stays in your file for at least 90 days. An extended alert stays in your file for seven years. To place either of these alerts, a consumer reporting agency will require you to provide appropriate proof of your identity, which may include your Social Security number. If you ask for an extended alert, you will have to provide an *identity theft report*. An *identity theft report* includes a copy of a report you have filed with a federal, state, or local law enforcement agency, and additional information a consumer reporting agency may require you to submit. For more detailed information about the *identity theft report*, visit www.consumer.gov/idtheft.
2. **You have the right to free copies of the information in your file (your "file disclosure").** An initial fraud alert entitles you to a copy of all the information in your file at each of the three nationwide agencies, and an extended alert entitles you to two free file disclosures in a 12-month period following the placing of the alert. These additional disclosures may help you detect signs of fraud, for example, whether fraudulent accounts have been opened in your name or whether someone has reported a change in your address. Once a year, you also have the right to a free copy of the information in your file at any consumer reporting agency, if you believe it has inaccurate information due to fraud, such as identity theft. You also have the ability to obtain additional free file disclosures under other provisions of the FCRA. See www.ftc.gov/credit.
3. **You have the right to obtain documents relating to fraudulent transactions made or accounts opened using your personal information.** A creditor or other business must give you copies of applications and other business records relating to transactions and accounts that resulted from the theft of your identity, if you ask for them in writing. A business may ask you for proof of your identity, a police report, and an affidavit before giving you the documents. It also may specify an address for you to send your request. Under certain circumstances, a business can refuse to provide you with these documents. See www.consumer.gov/idtheft.
4. **You have the right to obtain information from a debt collector.** If you ask, a debt collector must provide you with certain information about the debt you believe was incurred in your name by an identity thief - like the name of the creditor and the amount of the debt.
5. **If you believe information in your file results from identity theft, you have the right to ask that a consumer reporting agency block that information from your file.** An identity thief may run up bills in your name and not pay them. Information about the unpaid bills may appear on your consumer report. Should you decide to ask a consumer reporting agency to block the reporting of this information, you must identify the information to block, and provide the consumer reporting agency with proof of your identity and a copy of your *identity theft report*. The consumer reporting agency can refuse or cancel your request for a block if, for example, you don't provide the necessary documentation, or where the block results from an error or a material misrepresentation of fact made by you. If the agency declines or rescinds the block, it must notify you. Once a debt resulting from identity theft has been blocked, a person or business with notice of the block may not sell, transfer, or place the debt for collection.
6. **You also may prevent businesses from reporting information about you to consumer reporting agencies if you believe the information is a result of identity theft.** To do so, you must send your request to the address specified by the business that reports the information to the consumer reporting agency. The business will expect you to identify what information you do not want reported and to provide an *identity theft report*.

To learn more about identity theft and how to deal with its consequences, visit www.consumer.gov/idtheft, or write to the FTC. You may have additional rights under state law. For more information, contact your local consumer protection agency or your state attorney general.

In addition to the new rights and procedures to help consumers deal with the effects of identity theft, the FCRA has many other important consumer protections. They are described in more detail at www.ftc.gov/credit.

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Private Persons Arrests

360.1 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.

360.1.1 POLICY

It is the Policy of the Atherton Police Department to carefully and objectively evaluate private person arrests and, where it is lawful to do so, accept and properly process the person arrested.

360.2 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.

360.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

(a) For a public offense committed or attempted in his or her presence.

(b) When the person arrested has committed a felony, although not in his or her presence.

(c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

360.4 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.

360.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign an Atherton Police Department Private Person's Arrest form under penalty of perjury.

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

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Limited English Proficiency Services

364.1 PURPOSE AND SCOPE

Language barriers can inhibit or even prohibit individuals with Limited English Proficiency (LEP) from gaining meaningful access to, or an understanding of important rights, obligations and services. It is therefore the policy of this Department to take all reasonable steps to ensure timely and equal access to all individuals, regardless of national origin or primary language (Title VI of the Civil Rights Act of 1964, § 601, 42 USC 2000d).

364.1.1 DEFINITIONS

Authorized Interpreter - An employee who is bilingual and has successfully completed Department prescribed interpreter training.

Bilingual - The ability to communicate in two languages fluently, including the ability to communicate technical and law enforcement terminology.

Limited English Proficient (LEP) - Designates individuals whose primary language is not English and who have a limited ability to read, write, speak or understand English.

Translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

364.2 POLICY

Since there are potentially hundreds of languages department personnel could encounter, staff should consider the four-factor analysis outlined in the Department of Justice, LEP Guidance to Federal Financial Assistance Recipients, in determining which measures will provide reasonable and meaningful access to various rights, obligations, services and programs to everyone. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and requires an ongoing balance of the following four factors:

(a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department personnel.

(b) The frequency with which LEP individuals are likely to come in contact with department personnel, 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.

The intent of the four-factor analysis is to provide a balance that reasonably ensures meaningful access by LEP individuals to critical services while not imposing undue burdens on the Department or its personnel.

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364.2.1 IDENTIFICATION OF LEP INDIVIDUAL'S LANGUAGE
The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language in an effort to avoid misidentifying that language.

364.3 LEP COORDINATOR

Depending on the balance of the above four factors, the Department will make every reasonable effort to provide assistance to LEP individuals through a variety of services, where available. LEP individuals may elect to accept interpreter services offered by the Department at no cost, or choose to provide their own interpreter services at their own expense.

Department personnel should document in any related report whether the LEP individual elected to use interpreter services provided by the Department or some other source. Department provided interpreter services may include, but are not limited to, the assistance methods described in this section.

364.3.1 BILINGUAL STAFF
The Department strives to hire bilingual staff. Employees utilized for LEP services need not be certified as interpreters, but must have demonstrated, through established Department procedures, a level of competence to ascertain whether the employee's language skills are acceptable for LEP services.

364.3.2 TELEPHONE INTERPRETER SERVICES
The Communications Center will maintain a list of qualified interpreter services which, upon approval of a supervisor, can be contacted to assist LEP individuals. Such services shall be available to, among others, department personnel who utilize cellular telephones.

364.4 FOUR-FACTOR ANALYSIS

While all law enforcement contacts, services and individual rights are important, this Department should consider the four-factor analysis to prioritize language services so that they may be targeted where they are most needed.

Whenever any member of this Department is required to complete a report or other documentation, and interpretation or translation services are provided to any involved LEP individual, such services should be noted in the related report.

364.4.1 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE
In order to provide LEP individuals with meaningful access to police services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this Department has designated its 9-1-1 lines as its top priority for language services. Department personnel will make every reasonable effort to promptly accommodate such LEP individuals utilizing 9-1-1 lines through any or all of the above resources.

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364.4.2 EMERGENCY CALLS TO 9-1-1

When a 9-1-1 Dispatcher receives a call and determines that the caller is an LEP individual, the Dispatcher should quickly determine whether or not sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, and the language is known, the Dispatcher should immediately transfer the LEP caller to an available authorized interpreter to handle the call.

If an appropriate authorized interpreter is not available, the Dispatcher will promptly contact the contracted telephone interpretation service directly for assistance in completing the call. If available, Dispatchers will make every reasonable effort to dispatch a bilingual officer to the call.

364.4.3 FIELD CONTACTS

Field contacts with LEP individuals may include general assistance, enforcement actions and investigations. The scope and nature of these activities will inevitably vary. Department personnel must assess each situation to determine the need and availability for translation services to all involved LEP individuals, and utilize the methods outlined in section 368.3 to provide appropriate language assistance.

364.4.4 INVESTIGATIVE INTERVIEWS

In any situation where the translation of an interview may contain information that might be used in a criminal trial, it is important to take certain steps to improve the chances of admissibility. 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. Identifying and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

In order to ensure that translations during criminal investigations are documented accurately and admissible as evidence, audio recordings of interrogations, victim interviews and witness interviews should be used whenever reasonably possible.

364.5 TYPES OF LEP ASSISTANCE AVAILABLE

The Department shall ensure access to LEP persons who wish to file a complaint regarding the discharge of departmental duties. The Department may do so by providing interpretation assistance or translated forms to such individuals. If the Department responds to complaints filed by LEP individuals, the Department shall attempt to communicate its response in an accessible manner.

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Communications with Persons with Disabilities

366.1 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.

366.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

Disability or impairment - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

366.2 POLICY

It is the policy of the Atherton 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.

366.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Patrol Commander or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

(a) Working with the Town ADA coordinator regarding the Atherton Police Department's efforts to ensure equal access to services, programs and activities.

(b) Developing reports, new procedures, or recommending modifications to this policy.

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(c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

(d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Communications Supervisor. The list should include information regarding the following:

1. Contact information
2. Availability

(e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.

(f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.

(g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

366.4 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.

366.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

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Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

(a) The methods of communication usually used by the individual.

(b) The nature, length and complexity of the communication involved.

(c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Atherton 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.

366.6 TYPES OF ASSISTANCE AVAILABLE

Atherton 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.

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366.7 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.

366.8 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).

366.9 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.

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366.10 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 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.

366.11 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.

366.12 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.

366.13 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

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The Department 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 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.

366.13.1 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.

366.14 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.

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Communications with Persons with Disabilities

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.

366.15 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 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.

366.16 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.

366.17 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 and neighborhoods to provide equal access to such programs and services.

366.18 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.

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(b) Procedures for accessing qualified interpreters and other available resources.

(c) Working with in-person and telephone interpreters and related equipment.

The Training Manager 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 years thereafter. The Training Manager 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.

366.18.1 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 Dispatch members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

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Mandatory Employer Notification

368.1 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.

368.2 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:

368.2.1 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).

368.2.2 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).

368.2.3 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).

368.2.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591.5 or Health

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and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

368.3 POLICY

The Atherton Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

368.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

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Biological Samples

370.1 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.

370.2 POLICY

The Atherton 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.

370.3 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.

370.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

370.4.1 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.

370.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only

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with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

(a) The person's parole or probation officer when applicable.

(b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.

(c) The judge at the person's next court appearance.

(d) The person's attorney.

(e) A chaplain.

(f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

(g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

370.5.1 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).

370.5.2 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).

370.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

370.6.1 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.

370.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

(a) The California DOJ requests a blood sample and the subject consents, or

(b) A court orders a blood sample following a refusal.

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The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

370.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

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Public Safety Video Surveillance System

374.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

374.2 POLICY

The Atherton Police Department operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the Town to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist Town officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

374.3 OPERATIONAL GUIDELINES

Only department-approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of video surveillance technology and should consult with and be guided by legal counsel as necessary in making such determinations.

374.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected Town divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation, or other obstructions, should also be evaluated when determining placement.

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public video surveillance system may be useful for the following purposes:

(a) To prevent, deter, and identify criminal activity.

(b) To target identified areas of gang and narcotics complaints or activity.

(c) To respond to critical incidents.

(d) To assist in identifying, apprehending, and prosecuting offenders.

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(e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.

(f) To augment resources in a cost-effective manner.

(g) To monitor pedestrian and vehicle traffic activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the Watch Commander's office and Dispatch. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Watch Commander or trained personnel in Dispatch are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination, or retention is prohibited.

374.3.2 CAMERA MARKINGS

All public areas monitored by public safety surveillance equipment shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs should be well lit, placed appropriately and without obstruction to ensure visibility.

374.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems and video enhancement or other analytical technology, requires additional safeguards.

374.4 VIDEO SUPERVISION

Supervisors should monitor video surveillance access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

374.4.1 PROHIBITED ACTIVITY

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

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Public Safety Video Surveillance System

Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups 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.

Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

374.5 STORAGE AND RETENTION OF MEDIA

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule and for a minimum of one year. Prior to destruction, written consent shall be obtained from the Town Attorney. If recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved (Government Code § 34090.6).

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

374.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

374.6 TRAINING

All department members authorized to operate or access public video surveillance systems shall receive training as deemed appropriate by the Chief of Police. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

374.7 VIDEO SURVEILLANCE AUDIT

The Chief of Police or the authorized designee will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or

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any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline or policy.

The results of each review shall be appropriately documented and maintained by the Chief of Police or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

374.8 TRAINING

All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

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Child and Dependent Adult Safety

376.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Senior and Disability Victimization policies.

376.2 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 Atherton Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

376.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

(a) Inquire about and confirm the location of any children or dependent adults.

(b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.

(c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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Child and Dependent Adult Safety

376.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

(a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.

    1. Officers should consider allowing the arrested person to use their own cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.

(b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.

    1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.

(e) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

376.3.2 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.

376.3.3 REPORTING

(a) For all arrests where children are present or living in the household, the reporting member will document the following information:

1. Name
2. Sex
3. Age
4. Special needs (e.g., medical, mental health)
5. How, where and with whom or which agency the child was placed
6. Identities and contact information for other potential caregivers
7. Notifications made to other adults (e.g., schools, relatives)

(b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:

1. Name
2. Sex
3. Age
4. Whether he/she reasonably appears able to care for him/herself
5. Disposition or placement information if he/she is unable to care for him/herself

376.3.4 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.

376.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

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Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

376.5 TRAINING

The Training Manager is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

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Service Animals

378.1 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).

378.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; 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)).

378.2 POLICY

It is the policy of the Atherton 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.

378.3 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.
- 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

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schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

378.4 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 Atherton Police Department affords to all members of the public (28 CFR 35.136).

378.4.1 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.

378.4.2 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.

378.4.3 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.

378.4.4 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

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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).

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Volunteer Program

380.1 PURPOSE AND SCOPE

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

380.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, unpaid reserve officers, interns, persons providing administrative support and youth involved in a law enforcement Explorer Post, among others.

380.2 VOLUNTEER MANAGEMENT

380.2.1 VOLUNTEER COORDINATOR

The Volunteer Coordinator shall be appointed by the Administration Commander. The function of the Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions.

The Volunteer Coordinator, or his/her designee, shall be responsible for the following:

(a) Recruiting, selecting and training qualified volunteers for various positions.

(b) Facilitating the implementation of new volunteer activities and assignments.

(c) Maintaining records for each volunteer.

(d) Tracking and evaluating the contribution of volunteers.

(e) Maintaining the volunteer handbook and outlining expectations, policies and responsibilities for all volunteers.

(f) Maintaining a record of volunteer schedules and work hours.

(g) Completion and dissemination as appropriate of all necessary paperwork and information.

(h) Planning periodic recognition events.

(i) Administering discipline when warranted.

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(j) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

380.2.2 RECRUITMENT

Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in, and an ability to assist the Department in serving the public.

Requests for volunteers should be submitted in writing by interested staff to the Volunteer Coordinator through the requester's immediate supervisor. A complete position description and a requested time-frame should be included in the request. All parties should understand that the recruitment of volunteers is enhanced by creative and interesting assignments. The Volunteer Coordinator may withhold assignment of any volunteer until such time as the requesting unit is prepared to make effective use of volunteer resources.

380.2.3 SCREENING

All prospective volunteers should complete the volunteer application form. The Volunteer Coordinator or designee should conduct a face-to-face interview with an applicant under consideration.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

(a) Traffic and criminal background check. Fingerprints shall be obtained from all applicants and processed through the California Criminal Information Index.

(b) Employment

(c) References

(d) Credit check

A polygraph exam may be required of each applicant depending on the type of assignment.

380.2.4 SELECTION AND PLACEMENT

Service as a volunteer with the Department shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Department, who will normally be the Volunteer Coordinator. No volunteer should begin any assignment until they have been officially accepted for that position and completed all required screening and paperwork. At the time of final acceptance, each volunteer should complete all required enrollment paperwork and will receive a copy of their position description and agreement of service with the Department. All volunteers shall receive a copy of the volunteer handbook and shall be required to sign a volunteer agreement.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

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Volunteer Program

380.2.5 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the Department, personnel, policies and procedures that have a direct impact on their work assignment.

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

Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department.

380.2.6 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

(a) Driver license

(b) Medical condition

(c) Arrests

(d) Criminal investigations

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

380.2.7 DRESS CODE

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

Volunteers shall conform to department-approved dress consistent with their duty assignment. Uniforms authorized for volunteers should be readily distinguishable from those worn by sworn officers. The uniform or identifiable parts of the uniform shall not be worn while off-duty except volunteers may choose to wear the uniform while in transit to or from official department assignments or functions provided an outer garment is worn over the uniform shirt so as not to bring attention to the volunteer while he/she is off duty.

Volunteers shall be required to return any issued uniform or department property at the termination of service.

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Volunteer Program

380.3 SUPERVISION OF VOLUNTEERS

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as and act as a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

(a) Take the time to introduce volunteers to employees on all levels.

(b) Ensure volunteers have work space and necessary office supplies.

(c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

380.4 CONFIDENTIALITY

With appropriate security clearance, volunteers may have access to confidential information such as criminal histories or investigative files. Unless otherwise directed by a supervisor or departmental policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by departmental policy and supervisory personnel.

Each volunteer will be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

380.5 PROPERTY AND EQUIPMENT

Volunteers will be issued an identification card that must be worn at all times while on-duty. Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

380.5.1 VEHICLE USE

Volunteers assigned to duties such as vacation house checks or other assignments that require the use of a vehicle must first complete the following:

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(a) A driving safety briefing and department approved driver safety course.

(b) Verification that the volunteer possesses a valid California Driver License.

(c) Verification that the volunteer carries current vehicle insurance.

The Volunteer Coordinator should insure that all volunteers receive safety briefing updates and license and insurance verification at least once a year.

When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited in all Department vehicles.

Volunteers should not operate a marked patrol car unless there is a prominently placed sign indicating that it is out of service and are not authorized to operate a Department vehicle Code-3.

380.5.2 RADIO AND MDT USAGE

Volunteers shall successfully complete CLETS and radio procedures training prior to using the police radio or MDT and comply with all related provisions. The Volunteer Coordinator should ensure that radio and CLETS training is provided for volunteers whenever necessary.

380.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief of Police or the Volunteer Coordinator. Volunteers shall have no property interests in their continued appointment. However, if a volunteer is removed for alleged misconduct, the volunteer will be afforded an opportunity solely to clear his/her name through a liberty interest hearing which shall be limited to a single appearance before the Chief of Police or authorized designee.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

380.6.1 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

380.7 EVALUATION

An evaluation of the overall volunteer program will be conducted on an annual basis by the Volunteer Coordinator. Regular evaluations should be conducted with volunteers to ensure the best use of human resources available, to ensure personnel problems can be identified and dealt with promptly and fairly, and to ensure optimum satisfaction on the part of volunteers.

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Off-Duty Law Enforcement Actions

382.1 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 Atherton Police Department with respect to taking law enforcement action while off-duty.

382.2 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.

382.3 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.

382.4 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

(a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

(b) The inability to communicate with responding units.

(c) The lack of equipment, such as handcuffs, OC or baton.

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(d) The lack of cover.

(e) The potential for increased risk to bystanders if the off-duty officer were to intervene.

(f) Unfamiliarity with the surroundings.

(g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

382.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an Atherton Police Department officer until acknowledged. Official identification should also be displayed.

382.4.2 INCIDENTS OF PERSONAL INTEREST

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

382.4.3 NON-SWORN RESPONSIBILITIES

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

382.4.4 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.

382.5 REPORTING

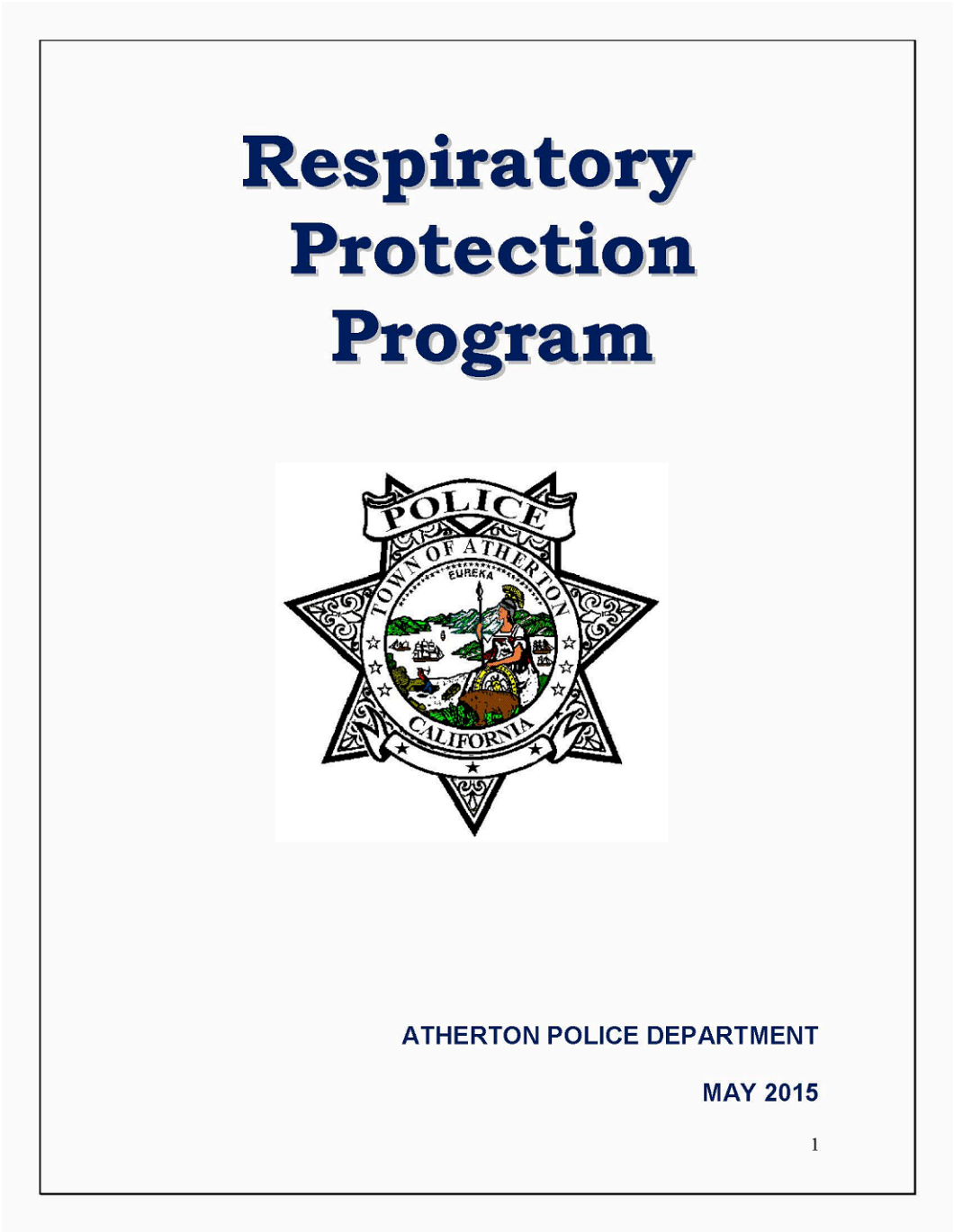
Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee.

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

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K. Personnel in Respirator Program

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Atherton Police Department Respiratory Protection Program 2015

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The Town of Atherton is committed to providing all employees with a safe work environment. To this end, the Town of Atherton has adopted a Respiratory Protection Program specifically for the Atherton Police Department. The proper selection and training in the use of respirators provides effective means to prevent or reduce bodily injury to officers.

I. PURPOSE

The purpose of this written program is to set forth uniform policies and procedures concerning the use of respirators by the Town of Atherton's sworn police personnel, whose assignments do not normally include contact with hazardous materials or response to the release of hazardous materials. This plan sets the minimum standards to comply with California Code of Regulations, Title 8, Section 5144, as it pertains to the use of air-purifying respirators (APRs) and powered air-purifying respirators (PAPRs).

II. SCOPE

This program covers equipment selection, medical screening, fit testing, training, use and maintenance of respirators to be used by sworn officers. The expenses associated with training, medical evaluations and respiratory protection equipment will be provided by the employer.

III. PROGRAM ADMINISTRATION

The Chief of Police or his designee of the Police Department has the overall authority and responsibility for the implementation and maintenance of the respiratory protection program. That person shall be knowledgeable about the requirements of Section 5144 of Title 8 of the California Code of Regulations and all elements of the respiratory protection program.

The program administrator is responsible for ensuring that all officers designated to use respirators are included in this program, and that the program is implemented in a consistent manner throughout the department.

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Responsibilities

Organizational Responsibility Chart		
Personnel	**Program Function**	**Records (Forms) Maintained**
Police Management	**Administration of Program** • **Oversight** • **Updates** • **Cartridge Change-Out Schedule** • **Inventory & Stocking**	• **Respirator Program Evaluation**
On-Site Vendor	**Medical Evaluation of workers requiring use of respirators** **Fit Testing – Qualitative/Quantitative**	**Results from licensed health care provider evaluation**
Lt. & Training Mgr.	**Respirator** • **Selection & Issuance**	• **Qualitative fit testing records** • **Respirator Inspection** • **Medical clearance forms** • **Records/Documentation Of Training**

IV. **APPROVED EQUIPMENT**

The National Institute shall approve all respiratory protective equipment for Occupational Safety and Health (NIOSH) for the environment in which it is going to be used. The Town of Atherton receives its equipment through the Office of Emergency Services and the gas mask issued is currently the MSA Millennium MD clear. The following definitions apply to equipment that will be issued to officers under this program:

Air-purifying respirator (APR) means a respirator that works by removing gas, vapor, or particulate, or combinations of gas, vapor, and/or particulate from the air through the use of filters, cartridges, or canisters that have been tested and approved for use in specific types of contaminated atmospheres by NIOSH. This respirator does not supply oxygen and therefore cannot be used to enter an atmosphere that is oxygen deficient.

Powered air-purifying respirator (PAPR) means air-purifying respirator that uses a blower to force ambient air through air-purifying elements to

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the respirator face piece or hood.

Note: Cartridges, canisters and filters are approved for use against specific hazards where the concentration is known or can be reasonably estimated. Some combination organic vapor/particulate cartridges and canisters are approved for use against CS and CN tear gas.

V. RESPIRATOR SELECTION

The program administrator shall maintain records on the type of equipment provided to officers and under what circumstances the equipment is to be used.

Recommended Equipment Use Chart

Respirator Use	Respirator Type	Manufacturer/model
Escape from chemical/biological/ nuclear incidents	CBRN approved escape hood (not yet available)	
Perimeter hazmat incidents with specific industrial chemicals	Full face piece (NIOSH approval TC 14G) combination cartridge or as specified by the hazmat incident commander	
Perimeter chemical/biological/ nuclear incident	Full face piece (gas mask) with CBRN approval (not yet available)	
Perimeter crowd control (CS or CN tear gas)	Full face piece (gas mask), TC 14G chloracetophenone cartridge or canister (combination organic vapor/particulate)	
Activation within crowd control area (CS or CN tear gas)	Full face piece (gas mask) TC 14G chloracetophenone cartridge or canister (combination organic vapor/particulate)	
Respiratory illness (TB, SARS, etc)	N-95 particulate respirator TC - 84A	

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Powered Air Purifying Respirators
Officers in this program will be issued Powered Air Purifying Respirators (PAPR) under the following conditions:

a. The physician or other licensed health care professional (PLHCP) recommends the use of a PAPR for medical reasons.
b. The officer cannot be successfully fit-tested for a tight-fitting face piece. These officers shall be issued a PAPR with a loose fitting hood or helmet.
c. The officer requests a PAPR.

VI. MEDICAL EVALUATION

Personnel are considered medically qualified to use respiratory protective equipment after completing the POST Medical History Statement (POST 2-252) or its equivalent and successfully passing a physical examination that occurs as a condition of employment.

The pre-employment physical must meet or exceed the standards described in the POST Medical Screening Manual for California Law Enforcement.

Employees who were hired prior to the implementation of the POST Medical History Statement (POST 2-252) shall complete the Cal/OSHA medical questionnaire and medical personnel shall review it.

For existing officers, due to potential exposure to high stress environments, changes in fitness levels and possible onset of confidential health conditions, it is anticipated that all officers will undergo annual medical review and clearance by a PLHCP.

Medical evaluations are required for any officer when:

1. An officer reports medical signs or symptoms that are related to the ability to use a respirator,
2. A physician or other licensed health care professional (PLHCP), a supervisor, or the Program Administrator informs the agency that an officer needs to be re-evaluated,
3. Observations made during fit testing and program evaluation indicate a need for re-evaluation, or
4. A change occurs in workplace conditions (e.g., physical work effort, protective clothing, temperature) that may result in a substantial increase in the physiological burden placed on an officer.

VII. FIT TESTING

1. The Fit Test procedure shall be administered in accordance with Appendix A of Section 5144 of Title 8 of the California Code of Regulations.

2. Before an officer is required to use any respirator with a tight-fitting face

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piece (APR/PAPR), the officer must be fit tested with the same make, model, style, and size of respirator to be used.

3. Fit tests shall be provided at the time of initial assignment and at least annually thereafter. Additional fit tests shall be provided whenever the officer, employer, PLHCP, supervisor, or program administrator makes visual observations of changes in the officer's physical condition that could affect respirator fit. These conditions include, but are not limited to, facial scarring, dental changes, cosmetic surgery, or an obvious change in body weight.

4. Prior to the fit test, the officer shall be shown the proper procedures for donning a respirator. The officer shall demonstrate donning the respirator, adjust the straps, and perform positive and negative pressure fit checks.

5. Officers who wear corrective glasses or other personal protective equipment must be sure that such equipment is worn in a manner that does not interfere with the face piece seal. The glasses or personal protective equipment that must be worn with the respirator shall be taken to the fit-test assessment and worn during the test.

6. Officers who are issued tight-fitting face piece gas/vapor air purifying respirators (gas masks) shall be provided with either a qualitative (employee response to test agent) or quantitative (numerical measurement of leakage) method fit test. Agencies must indicate in their department program records which test was utilized and the results of the tests.

7. An escape hood is not a tight-fitting face piece, and need not be fit tested. Officers who are issued escape hoods shall practice donning and removing the hood during training.

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VIII. **RESPIRATOR USE**

Escape: For escape from the release of hazardous materials, officers will be provided with the Millennium 2000.

_____ Air purifying Escape Hoods
___xx Combination cartridge air-purifying Respirator
_____CBRN approved air-purifying respirator
_____Other

Entry: Respirators issued under this program shall not be used to enter any area that is designated as the exclusion ("hot" or "red") zone, or the contaminant reduction ("warm" or "yellow") zone of a hazardous materials incident. They also should not be used to enter any areas that are known or suspected to be oxygen deficient, or that contain concentrations of hazardous substances that are unknown or are immediately dangerous to life or health (IDLH). Respirator use shall not conflict with the agency's emergency response plan.

Continuous duty: For continuous duty in maintaining the perimeter of hazardous materials or crowd control incidents, approved gas masks and other air-purifying respirators shall be used. Respirators shall be selected that are approved for the contaminants that are believed to be present, and wearers shall not be located in atmospheres in which concentrations exceed the protection factor of the respirator. The program administrator or incident commander shall determine a cartridge change schedule.

Breakthrough: If an officer detects breakthrough, the officer shall exit the area immediately, or as soon as safety conditions permit, remove the respirator and perform decontamination procedures. Breakthrough shall be reported to the incident commander or officer in charge. The incident commander or officer in charge shall re-evaluate potential exposures and determine whether it is necessary to re-define the incident perimeter.

Note: Some contaminants are detectable at levels that are below Cal/OSHA permissible exposure limits. Therefore detection of contaminants by a respirator user does not necessarily mean that officers are being exposed above the concentrations permitted under this program.

TB and other infectious airborne diseases: Particulate respirators shall be used when an officer is in sustained contact (including transport in a closed vehicle) with a person who is suspected of carrying an active infection with a serious airborne respiratory disease (such as tuberculosis), and who cannot be masked. Used respirators shall be discarded in appropriate containers, in accordance with the department's infection control procedures.

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IX. TRAINING

All officers will receive respirator training annually (or more frequently if necessary). The training shall include the following:

1. The specific circumstances under which respirators are to be used, including illustrative scenarios that identify the proper use by officers.
2. Why the respirator is necessary; how proper fit, proper usage, and maintenance can ensure the protective effect of the respirator.
3. What the respirator's limitations and capabilities are in terms of protecting against chemical agents and other respiratory hazards.
4. How to effectively use the respirators in emergency situations, including situations when the respirator malfunctions.
5. How to inspect, put on, remove, use, and check the seals of the respirator.
6. How to maintain and store the respirator. Officers who are issued PAPRs shall be instructed in procedures for charging and maintaining the batteries, and for checking the flow rate.
7. How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators.
8. How to decontaminate (or safely dispose of) a respirator that has been contaminated with chemicals or hazardous biological materials.

Additional training shall be provided when there is a change in the type of respiratory protection used, or when inadequacies in the officer's knowledge or use of the respirator indicate that he/she has not retained the requisite understanding or skill. This training can be accomplished by in-house training, viewing the POST video on respiratory protective equipment use, or a combination of both.

X. MAINTENANCE

Respirators are to be maintained at all times in order to ensure that they function properly and adequately protect the employee. On a monthly basis, at a minimum, at the beginning of their shift, every officer shall inspect the device for defects according to the training received. If a defect is found during inspection, the respirator shall be returned to the Lt. for replacement.

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Cleaning and Disinfecting
Each officer shall be provided with a respirator that is clean, sanitary, and in good working order. The department will ensure that respirators are cleaned and disinfected at the following intervals:

1. Respirators issued for the exclusive use of an officer shall be cleaned and disinfected as often as necessary to maintain a sanitary condition.

2. Respirators maintained for emergency use shall be cleaned and disinfected after each use.

3. Respirators used in fit testing and training shall be cleaned and disinfected after each use (before being used by another person).

4. Respirators that have been contaminated with certain chemical, biological, or radioactive (CBRN) agents require special decontamination procedures to reduce the likelihood of secondary exposures to the user or assisting personnel. Users will be informed of any special decontamination procedures that are required.

Storage
All respirators shall be stored to protect them from damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals. They shall be packed or stored to prevent deformation of the face piece and exhalation valve.

To protect the integrity of the equipment, officers will follow the manufacturer's recommendation for storage. The Program Administer will maintain records of where all equipment is stored. The Program Administer will provide a storage area that has the capability to charge the PAPR batteries when they are not in use.

Recommended Storage Location Chart

Type of respirator	Storage
Millennium 2000	Officer's Locker in Gas Mask Carriers

Inspection
Single-use particulate respirators shall be inspected prior to use. All other respirators shall be inspected annually. Inspections should include a check of:

1. Respirator function, tightness of connections, condition of the various parts including, but not limited to, the face piece, head straps, valves, and cartridges, canisters or filters.

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2. All rubber or plastic parts for pliability and signs of deterioration.

3. PAPR connecting tubes or hoses and batteries.

Each annual inspection shall include donning the respirator and performing positive and negative pressure fit-checks. An inspection log shall be kept on site.

Repairs
Any defective respirators shall be removed from service, and shall be adjusted, repaired or discarded as appropriate. Defective equipment will be turned into the Lt. and a replacement respirator will be issued.

Only persons who have been trained to perform such operations shall make repairs or adjustments to respirators. All repairs shall be made according to the manufacturer's recommendations and specifications for the type and extent of repairs to be performed, using only the manufacturer's NIOSH-approved parts.

XI. PROGRAM EVALUATION

The program administrator will conduct a periodic review of the agency's program to ensure the agency adheres to all subsections of this program.

XII. RECORD KEEPING

The program administrator is responsible for ensuring that proper records are kept for this program. This includes:

1. Personnel medical records shall be retained and made available in accordance with the California Code of Regulations, Section 3204, Title 8, for a minimum of thirty (30) years after an employee's separation or termination.
2. Documentation of training, inspection and maintenance.
3. Documentation of fit testing, including:
   - Type of test (quantitative)
   - Name or ID of employee
   - Make, model, style and size of respirator tested
   - Date of test
   - Results of the fit test

A copy of this program and the above records shall be made available to all affected employees, their representatives, and representatives of the Chief of the Division of Occupational Safety and Health.

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APPENDICES

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APPENDIX A

Referral for Medical Evaluation

Dear Dr._____:

We have discussed respirator use with (employee) _____ _____ and we feel that a medical examination before wearing a respirator is prudent. Attached is a job description, the respirator to be used, and other relevant information.

After the exam, please complete the following and return to this office.

Program Administrator: _____

Based on my evaluation and opinion, _____.
(Employee Name)

_____ has a condition that makes respirator use inadvisable.

_____has no limitations.

_____ is approved for respirator fit testing and assignment subject to the following limitations:

_____

_____ _____
Physician's Signature Date

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APPENDIX B

General Medical Exam Requirements

Periodic medical exams available to all respirator wearers, at no cost.

The Town of Atherton will comply with the following requirements when providing a medical examination performed by or under the supervision of a licensed physician to evaluate an employee's ability to wear a respirator:

A. The employer shall provide the physician with the following information in writing:

   1. A description of the respiratory hazard;
   2. The type of respirator to be used;
   3. The expected duration and frequency of use;
   4. The nature of the work to be performed including the level of physical effort involved;
   5. Any special environmental conditions, including temperature extremes, use of protective clothing and confined space.

B. The employer shall obtain and consider the physician's written recommendation as to any restrictions on the employee's ability to wear the respirator under the conditions of intended use.

   1. The employer shall instruct the physician to:

      a. Not reveal in the written recommendation any specific medical findings or diagnoses; and
      b. Not reveal to the employer, by any means, medical findings or diagnoses unrelated to the employer's ability to wear a respirator or to perform the job.

   2. The employer shall provide a copy of the written recommendation to the employee.

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APPENDIX C

Checklist for Medical Evaluation

- ❑ All employees have been evaluated to determine their ability to wear a respirator prior to being fit tested for or wearing a respirator for the first time in your workplace.
- ❑ A physician or other licensed health care professional (PLHCP) has been identified to perform the medical evaluations.
- ❑ The medical evaluations obtain the information requested in Part A of Appendix C of the Cal/OSHA Respiratory Protection Standard (CCR Title 8, Section 5144), or if their initial medical evaluation reveals that a follow-up exam is needed.
- ❑ Employees are provided follow-up medical exams if they answer positively to any of questions 1 through 8 in Section 2, Part A of Appendix C of the Cal/OSHA regulation (CCR Title 8, Section 5144), or if their initial medical evaluation reveals that a follow-up exam is needed.
- ❑ Medical evaluations are administered confidentially during normal work hours and in a manner that is understandable to employees.
- ❑ Employees are provided the opportunity to discuss the medical evaluation results with the PLHCP.
- ❑ The following supplemental information is provided to the PLHCP before he or she makes a decision about respirator use:
  - ❑ Type and weight of the respirator.
  - ❑ Duration and frequency of the respirator use.
  - ❑ Expected physical work effort.
  - ❑ Additional protective clothing to be worn.
  - ❑ Potential temperature and humidity extremes.
  - ❑ Written copies of the Respiratory Protection Program and the Respiratory Protection standard.
- ❑ Written recommendations are obtained from the PLHCP regarding each employee's ability to wear a respirator, and that the PLHCP has given the employee a copy of these recommendations.

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- Employees who are medically unable to wear a negative pressure respirator are provided with a powered air-purifying respirator (PAPR) if they are found by the PLHCP to be medically able to use a PAPR.

- Employees are given additional medical evaluations when:

  - The employee reports symptoms related to his ability to use a respirator.
  - The PLHCP, respiratory protection program administrator or supervisor determines that a medical re-evaluation is necessary.
  - Information from the respiratory protection program suggests a need for re-evaluation.
  - Workplace conditions have changed in a way that could potentially place an increased burden on the employee's health.

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APPENDIX D

Positive and Negative Fit Check Procedures

Positive Pressure Fit Check

1. Close off the exhalation valve by placing the palm of the hand over the valve. On some respirators, the exhalation valve cover may have to be removed.

2. Breathe out *gently.* Air will escape through the respirator if there are face seal gaps, or through the inhalation valves if there is a malfunction of the valves or valve seat or if the cartridges are not seated properly.

3. If a leak is detected, examine the respirator for possible deterioration or needed repairs. Ensure that the respirator is removed from service and repaired before attempting to repeat the fit check.

4. If a slight positive pressure can be built up inside the facepiece without any evidence of outward leakage of air at the seal, then the fit is considered satisfactory.

5. The positive pressure fit check must be satisfactorily passed before respirator use.

Negative Pressure Fit Check

1. Close off the respirator inlet or inhalation valve using the palm of the hand over the cartridge covering the valve. If the cartridge design does not allow effective coverage using the palm of the hand, a thin latex or nitrile glove can be used to instead to cover the cartridge.

2. *Gently* inhale to create a slight vacuum in an attempt to cause a parallel inward collapse of the face piece.

3. Maintain the vacuum inside the respirator for at least 10 seconds.

4. If a leak is detected, examine the respirator for possible deterioration or needed repairs. Ensure that the respirator is removed from service and repaired before attempting to repeat the fit check.

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5. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

6. The negative pressure fit check must be satisfactorily passed before respirator use.

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APPENDIX E

Respirator Selection General Guidelines Checklist

- ❑ Respiratory hazards in the workplace have been identified and evaluated.
- ❑ Employees exposures that have not been, or cannot be, evaluated are considered IDLH.
- ❑ Respirators are NIOSH certified and used under the conditions of certification.
- ❑ Respirators are selected based on the workplace hazards evaluated and workplace and user factors affecting respirator performance and reliability.
- ❑ A sufficient number of respirator sizes and models are provided to be acceptable and correctly fit the users.
- ❑ For IDLH atmospheres:
  - ❑ Full facepiece pressure demand SARs with auxiliary SCBA unit or full facepiece pressure demand SCBAs, with a minimum service life of 30 minutes, are provided.
  - ❑ Respirators used for escape only are NIOSH certified for the atmosphere in which they will be used.
  - ❑ Oxygen deficient atmospheres are considered IDLH.

- ❑ For non-IDLH atmospheres:
  - ❑ Respirators selected are appropriate for the chemical state and physical form of the contaminant.
  - ❑ Air-purifying respirators used for protection against gases and vapors are equipped with end-of-life service indicators or a change schedule has been implemented.
  - ❑ Air-purifying respirators used for protection against particulates are equipped with NIOSH-certified HEPA filters or other filters certified by NIOSH for particulates under Section 42 CFR, part 84.

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APPENDIX F

Respirator Selection Worksheet For Identified Work Condition

1. Material:
   a. Chemical name _____
   b. Trade name_____ CAS#_____

   c. PEL (OSHA 1910.1000)_____e. TLV (ACGIH) _____

2. Form in use:
   a. Liquid?_____b. Solid?_____c. Gaseous? _____

   b. If gaseous, is it an organic vapor?_____e. acid gas? _____

   c. Other? _____

3. Maximum expected concentration:
   a. _____parts per million (ppm)
   b. _____milligrams per cubic meter (mg/m^3)

4. Will material be heated? No_____Yes _____
   If yes, to what temperature_°F. or_°C.

5. What is the odor threshold of the material? _____

6. At what concentration is the material considered to be toxic?_____ppm

7. Can the substance be absorbed through the skin? _____

8. Irritant to: eyes?_____respiratory tract?_____skin? _____

9. At what concentration is it an irritant? _____

10. If the substance is flammable, what is the LEL_____UEL _____

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11. What is the vapor pressure of the material? _____

12. Will material be mixed with other chemicals? □Yes □No
    If yes, give details: _____

13. Is there a possibility of oxygen deficiency? _____

14. Can good ventilation of the area be maintained? _____

15. Will exposure be continuous or intermittent? _____

16. Will the respiratory device be used for routine exposures or as an escape device? _____

17. Provide as much detail as possible concerning exposure conditions: _____

_____

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APPENDIX G

Fit Testing Procedures

Fit testing may be performed using either qualitative (subjective) or quantitative (objective) methods. NOTE: For full face respirators requiring a fit factor of 500 or greater, testing should be performed using quantitative methods only to insure proper filtration and documentation of fit factor.

Quantitative Fit Test (QNFT) Protocols

The following quantitative fit testing procedures have been demonstrated to be acceptable: Quantitative fit testing using a non-hazardous test aerosol (such as corn oil, polyethylene glycol 400 [PEG 400], di-2-ethyl hexyl sebacate [DEHS], or sodium chloride) generated in a test chamber, and employing instrumentation to quantify the fit of the respirator; Quantitative fit testing using ambient aerosol as the test agent and appropriate instrumentation (condensation nuclei counter) to quantify the respirator fit; Quantitative fit testing using controlled negative pressure and appropriate instrumentation to measure the volumetric leak rate of a facepiece to quantify the respirator fit.

1. General

(a) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and ensure that test equipment is in proper working order.

(b) The employer shall ensure that QNFT equipment is kept clean, and is maintained and calibrated according to the manufacturer's instructions so as to operate at the parameters for which it was designed.

2. Generated Aerosol Quantitative Fit Testing Protocol

Apparatus

1. Instrumentation. Aerosol generation, dilution, and measurement systems using particulates (corn oil, polyethylene glycol 400 [PEG 400], di-2-ethyl hexyl sebacate [DEHS] or sodium chloride) as test aerosols shall be used for quantitative fit testing.

2. Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the test agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the test agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

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3. When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high efficiency particulate air (HEPA) or P100 series filter supplied by the same manufacturer.

4. The sampling instrument shall be selected so that a computer record or strip chart record may be made of the test showing the rise and fall of the test agent concentration with each inspiration and expiration at fit factors of at least 2,000. Integrators or computers that integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

5. The combination of substitute air-purifying elements, test agent and test agent concentration shall be such that the test subject is not exposed in excess of an established exposure limit for the test agent at any time during the testing process, based upon the length of the exposure and the exposure limit duration.

6. The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g., where the respirator is probed), a free air flow is allowed into the sampling line at all times, and there is no interference with the fit or performance of the respirator. The in-mask sampling device (probe) shall be designed and used so that the air sample is drawn from the breathing zone of the test subject, midway between the nose and mouth and with the probe extending into the facepiece cavity at least 1/4 inch.

7. The test setup shall permit the person administering the test to observe the test subject inside the chamber during the test.

8. The equipment generating the test atmosphere shall maintain the concentration of test agent constant to within a 10 percent variation for the duration of the test.

9. The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event and its being recorded.

10. The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

11. The exhaust flow from the test chamber shall pass through an appropriate filter (i.e., high efficiency particulate filter) before release.

12. When sodium chloride aerosol is used, the relative humidity inside the

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test chamber shall not exceed 50 percent.

13. The limitations of instrument detection shall be taken into account when determining the fit factor.

14. Test respirators shall be maintained in proper working order and be inspected regularly for deficiencies such as cracks or missing valves and gaskets.

Qualitative fit test procedures are intended for use with air purifying respirators and air supplying respirators designed with a tight fitting face piece.

Respirator Selection

1. The test subject (the employee) shall be allowed to select the most acceptable respirator from among a sufficient number of respirator models and sizes so that the respirator is acceptable to the employee and correctly fits the employee.

2. Prior to selecting a respirator, the test subject shall be given a review of:
   - How to put on a respirator.
   - How the respirator should be positioned on the face.
   - How to set the strap tension.
   - How to determine an acceptable fit.

   A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator.

   NOTE: This review does not constitute formal training, its purpose is to help the employee make the proper respirator selection.

3. Explain to each test subject that:
   - He/she is to select the respirator that provides the most acceptable fit.
   - Each respirator has a different size and shape, and if fitted and used properly, the respirator will provide the employee with adequate protection.

4. Each test subject shall be instructed on how to hold each facepiece up to his/her face, then any facepiece that obviously does not give an acceptable fit can be eliminated.

5. Those respirators which are potentially acceptable for the test subject should be noted.

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- Have the subject put on the most comfortable mask, wearing it for least five minutes to assess its comfort.

- If the test subject is not familiar with the how to use a particular respirator, he/she must be instructed on how to don the mask several times and how to adjust the straps each time to become adept at setting the proper strap tension.

6. Use the following points to assist in determining the comfort level of each facepiece:
   - Position of the mask on the nose.
   - Room for eye protection.
   - Room to talk.
   - Position of mask on the face and cheeks.

7. The following criteria shall be used to help determine the adequacy of the respiratory fit:
   - Chin properly placed.
   - Adequate strap tension, not too tight.
   - Fit across nose bridge.
   - Proper size of respirator so that it covers the distance from nose to chin.
   - Tendency of the respirator to slip.
   - Self-observation in the mirror to evaluate the fit and position.

Odor Threshold Screening

Employees should select the proper size respirator. Employees should don the respirator, position the face piece and head straps and adjust the strap tension to make the respirator comfortable. Assessing the comfort involves reviewing the:

- face piece positioning on the face at the chin and nose bridge.
- strap tension and tendency to slip.
- use of safety glasses and other personal protective equipment.

Employees should try on the different face pieces available and eliminate those which are obviously not comfortable. Once the most comfortable face piece is selected, the employee puts on the equipment and conducts the positive and negative pressure fit checks.

If the respirator does not pass the fit check, the face piece and/or straps are readjusted and the fit check is tried again. If the respirator still does not pass the fit check, a different face piece is selected and the fit checks are repeated.

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Under no circumstances shall an employee be permitted to wear a respirator that does not pass the fit checks.

Once the fit checks are passed, the employee should then wear the respirator in normal atmosphere for at least five minutes to make sure the fit remains comfortable.

User Seal Check Test

General Requirements:
A user seal check must be conducted by each test subject. This can be done using either the negative and positive pressure seal checks described below or those recommended by the respirator manufacturer so long as they provide protection equivalent to that found in Appendix B-1 of this regulation.

- ❑ Before conducting the negative and positive pressures, have the test subject seat the mask on the face by moving his/her head from side-to-side and then up and down slowly while taking in a few slow deep breaths.
- ❑ If the test subject fails the user seal check test, another facepiece must be selected and retested for him/her.
- ❑ If there is any hair growth between the skin and the facepiece sealing surface (i.e. stubble beard growth, beard, mustache or sideburns) which cross the respirator sealing surface, a fit test will not be conducted.
- ❑ If any type of apparel interferes with a satisfactory fit it must be altered or removed.
- ❑ If a test subject shows any signs of breathing difficulties during fit testing, he or she shall be referred to a physician or other licensed health care professional to determine if the employee can wear a respirator while performing his or her duties.
- ❑ If it is found that the fit of the respirator is unacceptable, the test subject shall be given the opportunity to select another respirator.

Procedure for Conducting the User Seal Check Test:

The purpose of conducting the user seal check test is to ensure that an adequate seal is achieved each time the respirator is worn. This is to be done using *either* the negative or positive pressure check described below, or using the manufacturer's recommended user seal check method.

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Fit Test Exercises

General Requirements:

The respirator to be tested must be worn at least five minutes before the fit testing begins. The following shall be given to each test subject before beginning the fit test:

- A description of the fit test.
- A description of his/her responsibilities during the test procedure.
- A description of the test exercises that the subject will be performing.

The fit test must be conducted while the test subject is wearing any applicable safety equipment that may be worn during actual respirator use which would interfere with the respirator fit.

Procedures for Conducting Fit Test Exercises:

The following test exercises are to be performed for all fit testing methods prescribed in this appendix (excluding the CNP method). The test subject shall perform the exercises, in the test environment, using the following procedures:

- While in a normal standing position, the subject shall breathe normally without talking.
- While in a normal standing position, the subject shall breathe slowly and deeply, being cautious not to hyperventilate.
- Standing in place, the subject shall turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.
- Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (while looking toward the ceiling).
- The subject shall talk out loud slowly and loud enough so as to be heard clearly by the person conducting the test. The subject may read from any prepared text such as the “Rainbow Passage,” count backward from 100, or recite a memorized poem or song.
- The test subject shall grimace by smiling or frowning.

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- ❑ The test subject shall bend at the waist as if he/she were to touch her/his toes. For environments that do not permit bending over at the waist, jogging in place shall be substituted.
- ❑ Normal breathing in the same manner described above.
- ❑ Each test exercise must be performed for one minute except for the grimace exercise, which is to be performed for fifteen seconds.
- ❑ Upon completion of the test procedure, the test subject shall be questioned by the test conductor about the comfort of the respirator. If the respirator fit comfort becomes unacceptable, another model must be tried.
- ❑ Once the fit test begins, the respirator must not be adjusted, as any adjustments voids the test and the test must then be repeated.

Fit Test Protocol

General Requirements:

- Fit test hood
- Supply of paper towels and sealable or self-sealing bags

1. Each respirator used for the fitting and fit testing must be equipped with organic vapor cartridges or offer protection against organic vapors.
2. After selecting, donning, properly adjusting the respirator and performing positive and negative pressure fit checks, the test subject will indicate they are ready to be fit tested.
3. Place the fit test hood over the subject's head. Have the test subject perform the following exercises in the order listed for 1 minute durations each.
   a. Breathing normally.
   b. Breathing deeply.
   c. Turning head from side to side, stopping at each end of travel for at least two breaths.
   d. Moving head up and down, holding at each end for one to two breaths.
   e. Talking, reciting the alphabet, counting or reading a prepared text.
4. If failure occurs, the subject should return to the selection room and remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, and repeat the fit test procedures and exercises (step 3). Repeat the process until a respirator that fits well has been found. Odor sensitivity usually will have returned by this time.

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Rainbow Passage Text

"When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow."

Reading the "Rainbow Passage" results in a wide range of facial movements and helps test for a good facial fit.

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APPENDIX H

Qualitative Respirator Fit Test Record

Name: _____

POST ID #_____Title _____

		Mfr.	Model	Size
Respirator(s) selected:	(1)	_____	_____	_____
	(2)	_____	_____	_____
	(3)	_____	_____	_____

Odor Sensitivity Test (check) ⌟⌟0.4 ⌟⌟ND 0.4 ml stock/500 ml water

Taste Sensitivity Test (check) ⌟⌟10 ⌟⌟20 ⌟⌟30 ⌞⌟ND

squeezes: ___

Conditions which may affect respirator Fit Test: (check)
⊓⊓Facial Scar ⌝⌝Wrinkles ⊓⊓Other (describe) _____
□□Dentures Absent ⌋□Ruptured Eardrum

	Respirator											
Respirator Test Performed	1			2			3			4		
Positive pressure	P	F	N	P	F	N	P	F	N	P	F	N
Negative pressure	P	F	N	P	F	N	P	F	N	P	F	N
Saccharin	P	F	N	P	F	N	P	F	N	P	F	N

(P = Passed, F = Failed, N = Not run)

Mfr._____Model _____Size Respirator(s) assigned:

(1)	_____	_____	_____
(2)	_____	_____	_____

Prescription eyeglass adapter required for full face piece? ⊓Yes ⊂No

Comments:_____

_____

I have received respirator protection training/fitting and understand the conditions under which it is to be used.

Employee Signature:_____Tested By: _____

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APPENDIX I

Respirator Inspection Record

1. Name:_____ Date: _____

2. Respirator Type/Number: _____

Face-Piece	Yes/No	Comments
Cracks, tears, holes?		
Facemask distortion?		
Cracked or loose lenses/faceshield?		

Head straps	Yes/No	Comments
Cracks, tears, holes?		
Broken buckles?		

Valves	Yes/No	Comments
Cracks, tears, holes?		
Residue or dirt?		

Filters/Cartridges	Yes/No	Comments
Cracks, tears, holes in housing?		
Gaskets in good condition?		
Proper cartridge for the hazard?		
Approval designation?		

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APPENDIX J

Respiratory Protection Program Evaluation

Respiratory Protective Equipment Selection

Yes	No	N/A	
☐	☐	☐	Are work area conditions and worker exposures properly surveyed?
☐	☐	☐	Are respirators selected on the basis of hazards to which worker is exposed?
☐	☐	☐	Are selections made by individuals knowledgeable in proper selection procedures?
☐	☐	☐	Are only approved respirators purchased and used?
☐	☐	☐	Do they provide adequate protection for specific hazards and contaminant concentrations?
☐	☐	☐	Where practical, have respirators been issued to the users for their exclusive use and are there records covering issuance?
☐	☐	☐	Has a medical evaluation of the prospective user been made to determine physical and psychological ability to wear the selected respiratory protective equipment?

Wearer Acceptance

Respirator wearers shall be consulted with on a periodic basis to re-evaluate the acceptance of their respirators. The following factor shall be assessed:

Yes	No	N/A	
☐	☐	☐	Is the comfort of the respirator acceptable for the wearer?
☐	☐	☐	Is the respirator causing the wearer any difficulties with breathing resistance?
☐	☐	☐	Are there any problems with the wearer experiencing fatigue?
☐	☐	☐	Is the respirator causing any vision interference for the wearer?
☐	☐	☐	Is the respirator interfering with the wearer's ability to communicate?
☐	☐	☐	Is the respirator causing any movement restriction for the wearer?
☐	☐	☐	Is the respirator interfering with the wearer's job performance?
☐	☐	☐	Are there any concerns about the level of protection provided by the respirator?

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Respiratory Protective Equipment Fitting

Yes	No	N/A	
☐	☐	☐	Are the users given opportunity to try on several respirators to determine whether the respirator they will subsequently be wearing is the best fit?
☐	☐	☐	Is the respirator fit tested at appropriate intervals?
☐	☐	☐	Are those users who require corrective lenses properly fitted?
☐	☐	☐	Is the face piece to face seal tested in a test atmosphere?
☐	☐	☐	Are workers prohibited from entering contaminated work areas when they have facial hair or other characteristics that reduce the effectiveness of tight fitting face pieces?

Respirator Use in the Work Area

Yes	No	N/A	
☐	☐	☐	Are respirators being worn correctly (e.g., head covering over respirator strap)?
☐	☐	☐	Are workers keeping respirators on all the time while in designated use area?

Maintenance of Respiratory Protective Equipment

Yes	No	N/A	
☐	☐	☐	Are respirators cleaned and disinfected after each use?
☐	☐	☐	Are proper methods of cleaning and disinfecting used?
☐	☐	☐	Are respirators stored in a manner to protect them from dust, sunlight, heat, excessive cold, moisture, or damaging chemicals?
☐	☐	☐	Are respirators stored properly in a storage facility to prevent them from deformation?
☐	☐	☐	Is storage in lockers and tool boxes permitted only if the respirator is in a carrying case or carton?
☐	☐	☐	Are respirators inspected before and after each use and during cleaning?
☐	☐	☐	Are qualified individuals/users instructed in inspection techniques?

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☐	☐	☐	Is respiratory protective equipment designated as "emergency use" equipment inspected at least monthly (in addition to after each use)?
☐	☐	☐	Is a record kept of the inspection of "emergency use" respiratory protective equipment?
☐	☐	☐	Are replacement parts made by the manufacturer of the respirator?

Special Use Conditions

Yes	No	N/A	
☐	☐	☐	Is a procedure developed for using respiratory protective equipment in atmospheres that are immediately dangerous to life or health (IDLH)?
☐	☐	☐	Is a procedure developed for using equipment for entry into confined spaces?

Training

Yes	No	N/A	
☐	☐	☐	Are users trained in proper respirator use, cleaning and inspection?
☐	☐	☐	Are users trained in the basis for selecting respirators?
☐	☐	☐	Are users evaluated, using competency based evaluation, before and after training?

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APPENDIX K

PERSONNEL IN RESPIRATORY PROTECTION PROGRAM			
Name	**Department**	**Job Description/ Work Procedure**	**Respirator**

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APPENDIX L

Respirator Fit Test Record

A.	Employee:				Date:		
	Employee No						
	Employee Job Title/Description:						
B.	Employer:	Town of Atherton					
	Location/Address:	83 Ashfield Road, Atherton, CA 94027					
C.	Respirator Selected:	Millennium			Mask Size:		
	Manufacturer:	MSA			Serial #:		
D.	Conditions which could affect respirator fit:						
	Clean Shaven:			Facial Scar:			
	1-2 Days Beard Growth:			Dentures Absent:			
	2 + Days Beard Growth:			Glasses:			
	Moustache:			None:			
	Comments:						
E.	Fit checks:						
	Negative Pressure:	Pass:	Fail:	Not Done:			
	Positive Pressure:	Pass:	Fail:	Not Done:			
F.	Fit Testing:						
	Quantitative:	Fit Factor:					
	Qualitative:	Saccharin:	Bitrex:	Smoke:			
		Pass	Pass	Pass			
	Comments:						
G.	Employee acknowledgement of test results:						
	Employee Signature:				Date:		
	Test Conducted By:				Date:		

DISCLAIMER

The above respirator fit test was performed on and by the persons listed. The results indicate the performance of the listed respiratory protective device, as fitted on the employee named on this record under controlled conditions. Fit testing as performed, measures the ability of the respiratory protective device to provide protection to the individual tested. Allegro or the Test Conductor express or imply no guarantee that this or an identical respiratory protective device will provide adequate protection under conditions other than those present when this test was performed. Improper use, maintenances or application of this or any other respiratory protective device will reduce or eliminate protection.

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Native American Graves Protection and Repatriation

385.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

385.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

Funerary objects and associated funerary objects - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

Native American human remains - The physical remains of the body of a person of Native American ancestry.

Objects of cultural patrimony - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

Sacred objects - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

385.2 POLICY

It is the policy of the Atherton Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

385.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.4).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

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Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - Coroner, when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

385.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

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Gun Violence Restraining Orders

386.1 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).

386.1.1 DEFINITIONS

Definitions related to this policy include:

Gun violence restraining order - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms or ammunition, including an ammunition magazine (Penal Code § 18100).

386.2 POLICY

It is the policy of the Atherton Police Department to petition for and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

386.3 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).

386.3.1 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.

(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.

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(c) During a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions if that person owns or possesses a firearm.

Officers should consider obtaining a mental health evaluation if the encounter involves a situation where there is a reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

386.4 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 Dispatch / Records 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.

386.4.1 TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDERS

An officer requesting a temporary emergency gun violence restraining order shall (Penal Code § 18140):

(a) For oral requests, sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer and memorialize the order of the court on the form approved by the Judicial Council.

(b) Serve the order on the restrained person if the person can be reasonably located.

(c) Forward a copy of the order to the Records Supervisor for filing with the court and appropriate databases.

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Gun Violence Restraining Orders

386.5 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.

386.6 ON-DUTY DISPATCHER RESPONSIBILITIES

The On-Duty Dispatcher 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 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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Gun Violence Restraining Orders

386.7 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.

386.8 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.

386.9 GUN VIOLENCE RESTRAINING ORDER COORDINATOR

The Chief of Police will appoint a gun violence restraining order coordinator. The responsibilities of the coordinator include:

(a) Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by department members, also including procedures for requesting and serving (Penal Code § 18108):

1. A temporary emergency gun violence restraining order.
2. An ex parte gun violence restraining order.
3. A gun violence restraining order issued after notice and hearing.

(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 Supervisor for recording in appropriate databases and required notice to the court, as applicable.
3. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate (Penal Code § 18108).
4. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
5. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order.

(d) Coordinating with the Training Manager to provide officers who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.

(e) Reviewing each petition and any associated court documents for an order prepared by members, for compliance with this policy, department procedures, and state law.

(f) Developing and maintaining procedures for members to accept voluntarily surrendered prohibited items at times other than when an order is being served by the Department.

1. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.

(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).

386.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Detective Sergeant is responsible for the review of a gun violence restraining order obtained by the Department to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

386.11 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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Gun Violence Restraining Orders

386.12 TRAINING

The Training Manager should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

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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 FUNCTION

Officers will generally patrol in clearly marked vehicles, patrol assigned jurisdictional areas of Atherton, 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 the Patrol and other division 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

400.1.2 TERRORISM

It is the goal of the Atherton 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). The supervisor should ensure that all terrorism related reports and FIs are forwarded to the Detective Bureau Supervisor in a timely fashion.

400.2 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the Department should be shared among all divisions and specialized units on a timely basis. Members should be provided with

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opportunities on a regular basis to share information during the daily briefings and to attend briefings of other divisions or specialized units.

Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and divisions.

400.2.1 CRIME REPORTS

A crime report may be completed by any patrol officer who receives criminal information. The report will be processed and forwarded to the appropriate bureau for retention or follow-up investigation.

400.2.2 PATROL BRIEFINGS

Patrol supervisors, detective sergeants, and special unit sergeants are encouraged to share information as much as possible. All supervisors and/or officers will be provided an opportunity to share information at the daily patrol briefings as time permits.

400.2.3 INFORMATION CLIPBOARDS

Several information clipboards will be maintained in the briefing room and will be available for review by officers from all divisions within the Department. These will include, but not be limited to:

(a) TRAK flyers.

(b) Briefing material.

(c) Daily Activity Log.

(d) Teletypes.

(e) Local warrants.

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. Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

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400.4 POLICY

The Atherton Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

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Bias-Based Policing

402.1 PURPOSE AND SCOPE

The purpose of this policy is to increase the Department's effectiveness as a law enforcement agency and help build mutual trust and respect with diverse groups and communities. This policy provides guidance to Department members that affirms the Atherton Police Department's commitment to providing services and enforcing laws in a professional, nondiscriminatory, fair, and equitable manner that keeps both the community and officers safe and protected. The Department recognizes that explicit and implicit bias can occur at both an individual and an institutional level, and is committed to addressing and eradicating inappropriate use of biases.

402.1.1 DEFINITIONS

Definitions related to this policy include:

Age -refers to the chronological age of any individual.

Ancestry - refers to a person's family or ethnic descent.

Behavioral Health Disabilities - refers to disabilities associated with substance-related disorders, addictive disorders, and mental disorders.

Bias-Based Policing - is conduct motivated, implicitly or explicitly, by the member's beliefs about someone based on the person's actual or perceived personal characteristics, i.e.: race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability. For purposes of this policy, bias-based policing also includes, but is not limited to, an inappropriate reliance on actual or perceived characteristics of a person such as: language ability, skin color, genetic information, marital status, behavioral health disability, where they are located, mode of transportation, manner of dress, housing status, ancestry, medical condition, citizenship, immigration status, and other such distinguishing characteristics.

Detention or Investigatory Stop - is a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands, or words or conduct by an officer that would result in a reasonable person believing that he or she is not free to leave or otherwise disregard the officer. Absent physical restraint, before a detention exists in the law, it is necessary that the person actually submits to the assertion of authority.

Disability - includes mental disability and physical disability.

Discriminatory Policing - refers to differential enforcement or non-enforcement of the law, including the selection or rejection of particular policing tactics or strategies, which has a disparate impact on individuals of a particular demographic category.

Explicit Bias or Conscious Bias - is the traditional conceptualization of bias. With explicit bias, individuals are aware of their prejudices and attitudes toward certain groups. Positive or negative preferences for a particular group are conscious. Overt racism and racist comments are examples of explicit biases.

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Bias-Based Policing

Field interview or FI - refers to voluntary contacts during which an officer may ask questions or try to gain information about possible criminal activity, without indicating or implying that a person is not free to leave or is obligated to answer the officer's questions.

Gender Identity - means a person's internal, deeply felt sense of being male, female, or something other or in-between, regardless of the sex they were assigned at birth.

Gender Expression - means an individual's characteristics and behaviors (such as appearance, dress, mannerisms, speech patterns, and social interactions) that may be perceived as masculine or feminine.

Genetic information - means, with respect to any individual, information about any of the following:

- The individual's genetic tests.
- The genetic tests of family members of the individual.
- The manifestation of a disease or disorder in family members of the individual.

Genetic information - does not include information about the sex or age of any individual.

Implicit Bias or Unconscious Bias - refers to the attitudes or stereotypes that affect a person's understanding, actions, and decisions in an unconscious manner. These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual's awareness or intentional control. Implicit biases are different from known biases that individuals may choose to conceal.

LGBT - a common abbreviation that refers to the lesbian, gay, bisexual, and transgender community.

Mental Disability - includes, but is not limited to, all of the following:

- Having any mental or psychological disorder or condition, such as intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity.
- Any other mental or psychological disorder or condition not described above that requires special education or related services.
- Having a record or history of a mental or psychological disorder or condition.
- Being regarded or treated as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- Being regarded or treated as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability.

Mental Disability - does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

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Bias-Based Policing

Physical Disability - includes, but is not limited to, all of the following:

- Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
    - Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
    - Limits a major life activity.
- Any other health impairment not described above that requires special education or related services.
- Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment, which is known.
- Being regarded or treated as having, or having had, any physical condition that makes achievement of a major life activity difficult.
- Being regarded or treated as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability.

Physical Disability - does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

Probable Cause to Arrest - is a set of specific facts that would lead a reasonable person to objectively believe and strongly suspect that a crime was committed by the person to be arrested.

Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, or military and veteran status - includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

Racial or Identity Profiling - is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest. (Penal Code § 13519.4).

Reasonable Suspicion to Conduct a Pat-Search - is justified if officers have a factual basis to suspect that a person is carrying a weapon, dangerous instrument, or an object that can be used as a weapon, or if the person poses a danger to the safety of the officer or others. Officers

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must be able to articulate specific facts that support an objectively reasonable apprehension of danger under the circumstances and not base their decision to conduct a pat search on any perceived individual characteristics. Reasonable suspicion to conduct a pat search is different than reasonable suspicion to detain. The scope of the pat search is limited only to a cursory or pat down search of the outer clothing to locate possible weapons. Once an officer realizes an object is not a weapon, or an object that cannot be used as a weapon, the officer must move on.

Reasonable Suspicion to Detain - is a set of specific facts that would lead a reasonable person with the officer's same knowledge, training and experience to believe that a crime is occurring, had occurred in the past, or is about to occur. Reasonable suspicion to detain is also established whenever there is any violation of law. Reasonable suspicion cannot be based solely on a hunch or instinct.

Religion includes "religious creed," "religious observance," "religious belief," and "creed" - which are all aspects of religious belief, observance, and practice, including religious dress and grooming practices. "Religious dress practice" shall be construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of an individual observing a religious creed. "Religious grooming practice" shall be construed broadly to include all forms of head, facial, and body hair that are part of an individual observing a religious creed.

Search - refers to an exploration or inspection of a person's house, body, clothing, property or other intrusion on a privacy interest by a law enforcement officer for the purpose of discovering evidence of a crime or a person who is accused of a crime.

Sex - includes, but is not limited to, a person's gender. "Gender" means sex and includes a person's gender identity and gender expression.

Sexual Orientation - means heterosexuality, homosexuality, and bisexuality.

Stop - generally describes "Detentions," "Investigatory Stops" and "Vehicle Stops."

Vehicle stop - refers to the involuntary detention of a vehicle and the person driving the vehicle or an occupant based on probable cause that the driver has committed a traffic violation, or reasonable suspicion based on specific and articulable facts that the vehicle or an occupant of the vehicle has been, is, or is about to be engaged in the commission of a crime.

Voluntary or Consensual Contacts - refers to interactions between members and community members that do not involve coercion. During a voluntary contact, a community member is free to leave at any time and is under no obligation to respond to officers' attempts at questioning or conversation.

Voluntary Social Contacts - refers to voluntary contacts between Department members and community members that are intended to serve no specific investigative purpose. Voluntary social contacts do not include questioning about possible criminal activity, but may serve other law enforcement purposes, including building trust and developing rapport with community members.

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Bias-Based Policing

402.2 POLICY

The Atherton 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.

Police action that is biased is unlawful and alienates the public, fosters distrust of police, and undermines legitimate law enforcement efforts. Race, ethnicity or nationality, religion, sex, sexual orientation, gender, gender identity or expression, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or enforcement of the law (i.e., discriminatory or bias-based policing).

Furthermore, a fundamental right guaranteed by the Constitution of the United States is due process and equal protection under the law guaranteed by the Fourteenth Amendment. Along with this right to due process and equal protection is the fundamental right to be free from unreasonable searches and seizures by government agents as guaranteed by the Fourth Amendment. Therefore, it is the policy of this Department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group. Members are charged with protecting these rights.

402.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited. However, nothing in this policy is intended to prohibit members from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

Members may consider relevant personal characteristics of an individual when determining whether to identify services designed for individuals with those characteristics (e.g., physical disability, behavioral crisis, homelessness, drug use, etc).

402.4 RELIGIOUS FREEDOM

Members shall not collect information on a person based on religious belief, practice, affiliation, national origin, or ethnicity unless permitted under state or federal law regarding criminal investigations (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

(a) In compiling personal information about a person’s religious belief, practice, affiliation, national origin, or ethnicity.

(b) By investigating, enforcing, or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

402.5 BIAS-BY-PROXY

Bias-by-proxy can be defined as when an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against (either implicit or explicit bias).

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(a) Members should be aware of the potential for biased-based motivations behind calls for service.

(b) Members should always aim to build community trust through all actions they take, especially in response to bias-based reports.

(c) Members should exhibit critical decision making, drawing on their training and awareness of implicit and explicit bias, to assess whether there is a legitimate law enforcement purpose before taking action. Absent a legal duty to act, no member is obligated to take any discretionary action where bias-based motivation is behind a call for service.

(d) When taking calls and dispatching, dispatchers should collect enough information necessary to verify there is a legitimate law enforcement purpose for the call and relay information without including biased assumptions. For suspected bias-motivated calls, dispatchers may use discretion to inform the caller that a member will not respond to the call without a legitimate basis of there being potentially criminal conduct or when there is no legitimate law enforcement purpose for responding.

(e) If dispatchers assign a member to a call, they should inform the responding member(s) and the Watch Commander of any concerns with the call for service. The responding member and/or the Watch Commander may cancel the call at their discretion.

402.6 MEMBER RESPONSIBILITY

(a) Every member of this Department shall perform their duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

(b) Members should treat all members of the public with courtesy, professionalism, and respect. Members will not use harassing, intimidating, derogatory, or prejudiced language, particularly when related to an individual's actual or perceived protected characteristics.

(c) Members will refer to all members of the public, including LGBT individuals, using the names, pronouns, and titles of respect appropriate to the individual's gender identity as expressed or clarified by the individual. Proof of the person's gender identity, such as an identification card, will not be required.

(d) Members will not inquire about intimate details of an individual's sexual practices, anatomy, or gender-related medical history, except as necessary to serve valid, nondiscriminatory law enforcement objectives.

402.6.1 REASONS FOR VOLUNTARY CONTACT

(a) Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

(b) To the extent that written documentation would otherwise be completed (e.g.: arrest report, Field Interview (FI) card, search), the involved officer should include those facts giving rise to the officer's reasonable suspicion or probable cause for the detention, as applicable.

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(c) Except for required data-collection Veritone Software entries, nothing in this policy shall require any officer to document a voluntary contact or social contact that would not otherwise require reporting.

402.6.2 FOR STOPS AND ARRESTS

(a) When conducting stops, officers should introduce themselves to the person being stopped and provide an explanation for the stop as soon as soon as reasonable and practicable.

(b) When reasonable and feasible under attendant circumstances, officers should listen to the member of the public's questions or concerns without interruption and directly address the questions the person may have regarding the stop, including an explanation of options for citation disposition, if relevant.

(c) Officers will ensure that a stop is no longer than necessary to take appropriate action for the known or suspected offense(s) and should convey the purpose of any reasonable delays.

(d) Officers conducting a stop and/or pat search shall be prepared to articulate sufficient reason for the stop and or search, independent of the protected characteristics of the individual.

(e) Officers arresting a person shall be prepared to articulate sufficient reason for the arrest, independent of the protected characteristics of the individual.

402.6.3 REPORTING OF STOPS

(a) 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 in Veritone. 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 Veritone report (11 CCR 999.227).

(b) If multiple agencies are involved in a stop and the Atherton Police Department is the primary agency, the Atherton Police Department officer shall collect the data elements and prepare the stop data report in Veritone (11 CCR 999.227).

(c) The stop data report should be completed by the end of the officer's shift or as soon as practicable (11 CCR 999.227).

402.6.4 NO RETALIATION AND/OR DISCIPLINE

No member shall, in any manner, dissuade or impede any person or member from filing a complaint or reporting misconduct, nor shall any member retaliate, threaten, or harass any person or member who has alleged or reported misconduct. Any interference or allegation of retaliatory action by a member shall be immediately reported to the Commander. Interference and/or retaliation are grounds for discipline as are breaches of this policy.

402.7 SUPERVISOR RESPONSIBILITY

(a) Provide leadership, counseling, direction, and support to members as needed.

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(b) Lead efforts to engage individuals and groups and ensure that members are working actively to engage the community and increase public trust.

(c) 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 department policy.

(d) Review documentation, including video from body-worn cameras as appropriate, of investigatory stops, detentions, searches, and arrests for completeness, accuracy, and adherence to law and department policy.

(e) Establish and enforce the expectation that members will police in a manner that is consistent with the U.S. and California Constitutions and federal and state laws, as well as internal policies.

(f) Discuss any issues with the involved officer and their supervisor in a timely manner.

(g) Initiate investigations of any actual or alleged violations of this policy.

(h) Ensure that no retaliatory action is taken against any community member or member of this Department who discloses information concerning profiling and/or bias-based policing.

(i) Identify training and professional development needs and opportunities.

(j) Highlight areas where members are engaging appropriately and effectively and use those examples during roll call and other training opportunities.

402.8 ADMINISTRATION

Each year, the Commander shall review the efforts of the Department to prevent profiling/ bias-based policing and submit an overview, including public concerns and complaints and an analysis of stop data, to the Police Chief. It should be reviewed 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.

402.9 TRAINING

(a) Training on fair and objective policing and review of this policy should be conducted as directed by the Training Manager annually.

(b) All sworn members and public safety dispatchers of this Department will attend Peace Officer Standards and Training (POST) approved training on the subjects of racial and identity profiling, bias-based policing, and procedural justice (i.e., principled policing).

1. 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 in performing their duties.

(c) All members will to attend initial implicit bias training and regularly scheduled updated training.

(d) Each sworn member of this Department who received initial racial - or bias - based profiling training will thereafter be required to complete an approved refresher course

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every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

(e) Dispatchers will receive periodic training in identifying biased calls and on operating procedures for how biased calls should be dispatched.

402.10 REPORTING TO THE CALIFORNIA DEPARTMENT OF JUSTICE

(a) The Commander shall ensure that all data required by the Department of Justice (DOJ) regarding citizen complaints of racial bias against officers is collected and reported annually to DOJ (Penal Code § 13012; Penal Code § 13020).

(b) The Records & Communications Manager shall ensure that all stop data required by the Department of Justice is reported annually.

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Racial and Identity Profiling Act (RIPA)

403.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for the collection of data pursuant to California Government Code section 12525.5, known as the Racial and Identity Profiling Act (RIPA) of 2015 (AB 953).

403.2 POLICY

It shall be the policy of the Atherton Police Department to collect and report data to the California Department of Justice (DOJ) in accordance with RIPA, which requires officers to complete an entry for each individual detained or searched during a call for service or self-initiated activity.

403.3 BACKGROUND

The Racial and Identity Profiling Act (RIPA) of 2015 (AB 953), passed by the California Legislature, requires the reporting of detailed data regarding all stops, which AB 953 defines as a detention or search, including a consensual search, to the California Department of Justice. Effective January 1, 2022, the Atherton Police Department will begin collecting and reporting this data. As part of AB 953, the Racial and Identity Profiling Advisory (RIPA) Board was formed in July 2016 with the stated purpose of “eliminating racial and identity profiling and improving diversity and racial and identity sensitivity in law enforcement.” The RIPA Board, which is comprised of a diverse group of individuals from various sectors (law enforcement, civil and human rights, and academia), aims to improve law enforcement-community relations in California through collaboration, transparency, and accountability.

Assembly Bill 953 enacted the Racial and Identity Profiling Act (RIPA) of 2015. RIPA revises the definition of racial profiling to instead refer to racial or identity profiling and makes a conforming change to the prohibition of peace officers engaging in that practice. The purpose of RIPA is to eliminate racial and identity profiling policies and practices across geographic areas of California, to make publicly available its findings and policy recommendations annually, to hold public meetings annually, and to issue RIPA Board reports.

AB 953 and California Government Code §12525.5 requires each state and local agency that employs peace officers to report annually to the Attorney General data on all stops conducted by the agency’s peace officers and defines the specific data that is to be reported.

403.4 GOVERNMENT CODE 12525.5

(a)(1) Each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency’s peace officers for the preceding calendar year.

(2) Each agency that employs 1,000 or more peace officers shall issue its first round of reports on or before April 1, 2019. Each agency that employs 667 or more but less than 1,000 peace officers shall issue its first round of reports on or before April 1, 2020. Each agency that employs 334 or more but less than 667 peace officers shall issue its first round of reports on or before April 1,

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2022. Each agency that employs one or more, but less than 334 peace officers shall issue its first round of reports on or before April 1, 2023.

(b) The reporting shall include, at a minimum, the following information for each stop:

1. The date, time, location of the stop.
2. The reason for the stop.
3. The result of the stop (no action, warning, citation, property seizure, or arrest).
4. If a citation or warning was issued, the violation for which the citation or warning was issued.
5. If an arrest was made, the offense charged.
6. The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop (the information shall not be requested from the person stopped). For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under paragraph (8) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for him or her.
7. The perceived sexual orientation, limited or no English fluency, or disability of the person stopped.
8. Actions taken by the peace officer during the stop:
    (a) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.
    (b) Whether the peace officer searched the person or any property and, if so, the basis for the search and the type of contraband or evidence discovered, if any.
    (c) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

(c) If more than one peace officer performs a stop, only one officer is required to collect and report to his or her agency the information specified under subdivision (b).

(d) State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved, which shall be released to the public only to the extent the release is permissible under state law.

(e) Not later than January 1, 2017, the Attorney General, in consultation with stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA) established pursuant to paragraph (1) of subdivision (j) of Section 13519.4 of the Penal Code, federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations, shall issue regulations for the collection and reporting of data required under

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subdivision (b). The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies. To the best extent possible, such regulations should be compatible with any similar federal data collection or reporting program.

(f) All data and reports made pursuant to this section are public records within the meaning of subdivision (e) of Section 6252 and are open to public inspection pursuant to Sections 6253 and 6258.

(g) (1) For purposes of this section, “peace officer,” as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. “Peace officer,” as used in this section, does not include probation officers and officers in a custodial setting.

(2) For purposes of this section, “stop” means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person’s body or property in the person’s possession or control.

State and local law enforcement agencies shall not report the name, address, social security number, or other unique identifying information of persons stopped, searched, or subjected to a property seizure.

Except for the badge number or unique identifying information of the peace officer involved, the data collected and reported shall be made available to the public.

403.5 WHEN STOP DATA INFORMATION IS REQUIRED

AB 953 requires all California law enforcement agencies to collect and report to the California Attorney General detailed data regarding all stops, which AB 953 defines as a detention search, including a consensual search.

(a) A "stop" under AB 953 is a detention, by a peace officer, of a person or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person’s body or property in the person's possession or control. In addition, vehicle and pedestrian stops, this includes all calls for service resulting in a detention.

(b) A “detention” under AB 953 means a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands or conduct by an officer that would result in a reasonable person believing he/she is not free to leave or otherwise disregard the officer.

403.6 INFORMATION REQUIRED

The information required to be collected on each stop and reported to the Department of Justice (DOJ) includes information about the stop itself, the person stopped, and the officer making the stop.This information is known as "data elements”.Officers are required to submit the following data elements:

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1. Date, time, and duration of stop.
2. Location of stop.
3. Reason for stop.
4. Whether the stop was in response to a call for service.
5. Actions taken by officer during the stop (e.g.: curbside detention, handcuffed or flex cuffed, firearm pointed at person, firearm discharged or used, searched, etc). For searches, the officer must report whether the officer asked for consent to search the person or person's property, and whether consent was given.
6. Contraband or evidence discovered, if any.
7. Property seized, if any.
8. Result of stop (e.g.: warning, citation for infraction, custodial arrest, etc).

With respect to the person stopped, the officer must report his/her own perception, based upon personal observation only (and not through any other means, such as asking the person or referring to identification), regarding the following:

1. Perceived race or ethnicity of the person stopped.
2. Perceived age of the person stopped.
3. Perceived gender of the person stopped.
4. Whether the person stopped is perceived to be lesbian, gay, bisexual, or transgender.
5. Whether the person stopped is perceived to have limited or no English fluency.
6. Whether the person stopped is perceived or known to have a disability.

403.7 ADMINISTRATIVE REQUIREMENTS

AB 953 requires that the following information be shared with DOJ regarding the officers responsible for collecting stop data information:

1. The reporting officer's agency originating agency identifier, which is a unique identifier assigned by the Federal Bureau of Investigation.
2. The officer's identification number, which is the permanent identification number assigned by the officer's law enforcement agency to the reporting officer and which will be used for all stop data reporting to DOJ.
3. The total years of experience for each peace officer at the time of the stop.
4. The officer's assignment at the time of the stop (such as patrol or gang enforcement).

403.8 PROCEDURE FOR STOP DATA ENTRIES

1. Stop data information must be collected whenever a peace officer conducts a "stop" of an individual.A "stop" as defined under AB 953 is "a detention, by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search of the person's body or property in

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the person's possession or control.This includes vehicle and pedestrian stops, and all calls for service resulting in a detention.

2. A “detention” under AB 953 means a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands or conduct by an officer that would result in a reasonable person believing he/she is not free to leave or otherwise disregard the officer.
3. RIPA stop data entries will be completed using Veritone Software.
4. All sworn department members will be provided access to a department-issued smart phone for the purpose of accessing Veritone for stop data entries.
5. Individual officers have the primary responsibility for ensuring stop data information is collected in accordance with this policy. Deliberate failure to collect required information will result in disciplinary action.

403.9 GUIDELINES FOR STOP DATA ENTRIES

1. Personal Identifying Information (PII) / Unique Identifying Information (UII): Officers shall not include any Personal Identifying Information of the persons stopped or Unique Identifying Information of any officer in this explanation (Government Code 12525.5, subdivision (b)).
2. When providing the reason for the stop and basis for the search (if one is conducted), the officer is required to provide an explanation for the reason for the stop not to exceed 250 characters. The explanation shall include additional detail beyond the general check boxes selected. No personal identifying information for any parties should be included in this narrative.
3. The narrative should include the basis for the stop.
4. If a search was conducted, the narrative shall include the basis for the search.
5. Narratives will be written in plain language. Officers are not to use acronyms, penal code, vehicle code, other code sections, or 10-codes. Information in a narrative should not duplicate what has already been selected in other fields. What was written in the Reason for Stop filed should not be repeated in the Basis for Search field.
6. All stop data entries shall be completed by the end of the shift in which they were generated, unless there are extenuating circumstances, and only with supervisory approval. Any stop data entries not completed at the end of the shift shall be completed at the beginning of the next shift. Under no circumstances will officers be allowed to leave stop data entries incomplete over their days off or when on extended leaves.

403.10 SPECIAL CIRCUMSTANCES AND SETTINGS

AB 953 specifies various settings in which, for practical or public safety reasons, officers will not be required to report stops, or will only be required to report stops if the officer takes certain additional actions after stopping the person.

1. Not reportable: Stops made during public safety mass evacuations, active shooter events, and as the result of routine security screenings required of all people to enter a building or special event, do not need to be reported. Stops made of a person at

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their residence who is the subject of a warrant, search condition, home detention, or house arrest are not required to be reported.

2. Reporting for stops of passengers in a vehicle: Stops of passengers in a vehicle are only required to be reported if the officer engages in any of the actions with the passenger that are identified in the stop data category “Actions Taken,” except for “vehicle impounds” and “none.”For example, if an officer stops a vehicle with a passenger in the car, the officer is required to report a stop on a passenger if the officer does the following: handcuffed or flex cuffed the passenger, asked for consent to search the passenger, curb sat the passenger, removed the passenger from the vehicle by order, etc.

3. Reportable if officer takes any action under “Actions taken” during stop: Stops that take place in the following settings are only reportable if an officer takes any of the actions, excluding “none,” provided under the category of information entitled “Actions taken” and the person is detained based upon individualized suspicion or personal characteristics:

    (a) Traffic control.

    (b) Crowd control.

    (c) Interactions in which people are detained at a residence so an officer can verify proof of age for purposes of underage drinking.

    (d) Checkpoints or roadblocks in which all people are being detained or people are being detained based on a neutral formula (e.g.: a DUI sobriety checkpoint, where all vehicles are stopped or stops randomly selected vehicles using a neutral formula and not based on individualized suspicion or personal characteristics).

4. Reportable if officer takes specific actions under “Actions taken” during stop: When officers are executing warrants or search conditions, or are on home detention or house arrest assignments, they shall only report stops of people in the home who are not the subject of the warrant, etc., whom the officer takes action against. The following are examples of actions taken by the officer that require reporting: handcuffing or flex cuffing, making an arrest, pointing a firearm at the person, discharging or using a firearm, using an electronic control device, using an impact projectile, using a baton or other impact weapon, using chemical spray on the person, using a canine to bite/ hold the person, etc.

5. Stops of students in a K-12 public school are subject to different reporting requirements. In a K-12 public school, only the following interactions with students are subject to stop data reporting requirements:

    (a) An interaction resulting in temporary custody, citation, arrest, permanent seizure of property as evidence of a criminal offense, or referral to a school administrator because of suspected criminal activity.

    (b) An interaction in which a student is questioned to investigate whether he/she committed any violation of law, including offenses listed under Education Code sections 48900, 4800.2, 4800.3, 4800.4, and 4800.7, or to determine whether the student is a truant.

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(c) Any interaction in which an officer takes any of the actions provided under the category of information entitled “Actions taken,” excluding “none” and searches applied using a neutral formula.

403.11 MULTIPLE OFFICER OR OFFICERS FROM MULTIPLE AGENCIES

When there are multiple officers from the same agency involved in a single incident, the officer with the highest level of engagement will be responsible for collecting stop data information and completing stop data entries. Only one officer from the agency will complete stop data entries; however, entries must include all actions taken, including those taken by other officers.

When there are multiple officers from multiple agencies involved in a single incident, the primary agency will be responsible for collecting stop data information and completing stop data entries. Only one officer from the primary agency will complete stop data entries; however, entries must include all actions taken, including those taken by other officers.

403.12 RIPA ENTRY REVIEW PROCESS

Sergeants:

1. Sergeants will access their assigned officers’ stop data through the Veritone software approval process.
2. To access stop data entries, sergeants will select the “Review” tab.
3. Once in the “Review” tab, sergeants will select an entry to review and approve or reject.
4. Sergeants are expected to review each stop data field for completeness and accuracy.
5. Any errors or omissions will result in the stop data entry being returned to the officer for correction.
6. Stop data entries shall be completed by the end of the shift in which they were generated, unless there are extenuating circumstances, and only with supervisory approval. Any stop data entries not completed at the end of the shift shall be completed at the beginning of the next shift. Under no circumstances will officers be allowed to leave stop data entries incomplete over their days off or when on extended leaves.
7. When an entry is returned to an officer for corrections, it will appear in the officer’s “rejected” tab. Sergeants should provide sufficient narrative comments to allow the officer to understand what needs to be corrected.
8. All rejected notices sent to an officer must be corrected and resubmitted the next workday.
9. Once a stop data entry is completed and approved it is automatically transferred to the DOJ through Veritone.

403.13 RIPA COORDINATOR

The RIPA Coordinator will be a non-sworn, full-time employee of the police department. The RIPA Coordinator will be responsible for the following:

1. As a second level of review, the RIPA Coordinator will review all RIPA stop data entries to ensure completeness and accuracy.

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2. Generate bi-weekly RIPA compliance reports that will be forwarded to the sergeants and watch commanders identifying officers who are missing a RIPA entry or who have incomplete RIPA entries.
3. Provide the RIPA compliance report to the Commander as needed or as requested.
4. Facilitate the analysis of all stop data collected and prepare reports as needed or requested for RIPA compliance auditing or other purposes.
5. Oversee the transfer of completed stop data information to DOJ.

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Briefing Training

404.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Briefing; however officers may conduct Briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

(a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations

(b) Notifying officers of changes in schedules and assignments

(c) Notifying officers of new Departmental Directives or changes in Departmental Directives

(d) Reviewing recent incidents for training purposes

(e) Providing training on a variety of subjects

404.2 PREPARATION OF MATERIALS

The supervisor conducting Briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate officer in his or her absence or for training purposes.

404.3 RETENTION OF BRIEFING TRAINING RECORDS

Briefing training materials and a curriculum or summary shall be forwarded to the Training Manager for inclusion in training records, as appropriate.

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Crime and Disaster Scene Integrity

406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

406.2 POLICY

It is the policy of the Atherton Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

406.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

406.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

(a) Broadcast emergency information, including requests for additional assistance and resources.

(b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.

(c) Locate or identify suspects and determine whether dangerous suspects are still within the area.

(d) Provide first aid to injured parties if it can be done safely.

(e) Evacuate the location safely as required or appropriate.

(f) Secure the inner perimeter.

(g) Protect items of apparent evidentiary value.

(h) Secure an outer perimeter.

(i) Identify potential witnesses.

(j) Start a chronological log noting critical times and personnel allowed access.

406.5 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured

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persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

406.5.1 CONSENT

When possible, officers should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

406.6 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

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Police Department Visitors

407.1 PURPOSE AND SCOPE

To ensure the safety and security of Atherton Police Department employees, facilities, and equipment, all non-town employed civilian visitors to the Atherton Police Department will be required to wear a Visitor Badge.

407.2 PROCEDURE

Before a non-town employed civilian visitor is allowed access to the Atherton Police Department, the following procedure will take place:

(a) The visitor will sign the Visitor Log (located in Dispatch).

(b) The visitor will be given a numbered Visitor Badge by the Dispatcher.

(c) The number of the Visitor Badge will be documented in the Visitor Log by the Dispatcher.

(d) The visitor will wear and clearly display the Visitor Badge at all times while on Atherton Police Department property.

(e) The visitor will return the Visitor Badge and sign-out in the Visitor Log upon leaving the Atherton Police Department.

The above procedure applies to Town of Atherton Council Members and those conducting work for outside companies who are on Atherton Police Department property.

407.3 VISITOR BADGE EXAMPLE

See attachment: Visitor Badge.jpg

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Ride-Along Policy

410.1 PURPOSE AND SCOPE

The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Ride-Along Program.

410.1.1 ELIGIBILITY

The Atherton Police Department Ride-Along Program is offered to residents, students and those employed within the Town. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 15 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

410.1.2 AVAILABILITY

The Ride-Along Program is available everyday of the week, with certain exceptions. The Watch Commander or other supervisor must grant approval for the rider and time frame of the ride-along.

410.2 PROCEDURE TO REQUEST A RIDE-ALONG

Generally, ride-along requests will be scheduled by the Watch Commander. The participant will complete a ride-along waiver form. Information required on the form will include:

(a) First and last name.

(b) Home address.

(c) Home and work telephone numbers.

(d) Driver's license number.

(e) Emergency contact.

(f) Nearest relative.

(g) Personal physician name and phone number.

(h) Desired hospital.

(i) Any prior medical conditions or allergies.

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The Watch Commander will schedule a date for the ride-along, based on availability. The Watch Commander will notify the affected Watch Commander and officer to advise them of the ride-along appointment.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

410.2.1 PROGRAM REQUIREMENTS

Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Explorers, Chaplains, Reserves, police applicants, and all others with approval of the Watch Commander.

An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. No more than one ride-along will be allowed in the officer's vehicle at a given time.

410.2.2 SUITABLE ATTIRE

Any person approved to ride along is required to be suitably dressed in collared shirt, blouse or jacket, slacks and shoes. Sandals, T-shirts, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. The Watch Commander or field supervisor may refuse a ride along to anyone not properly dressed.

410.2.3 PEACE OFFICER RIDE-ALONGS

Off-duty members of this Department, or any other law enforcement agency, will not be permitted to ride-along with on-duty officers without the expressed consent of the Watch Commander. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty, and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK

All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Atherton Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

410.3 OFFICER'S RESPONSIBILITY

The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation, and as soon as practical, have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

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Ride-Along Policy

410.4 CONTROL OF RIDE-ALONG

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

(a) The ride-along will follow the directions of the officer

(b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment

(c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer's duties

(d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety

(e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen

(f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person

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Hazardous Material Response

412.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with Title 8, California Code of Regulations § 5194, the following is to be the policy of this Department.

412.1.1 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.

412.2 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 § 105215).

(f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

412.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to the Watch Commander. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded, via the chain of command, to the Commander. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the Watch Commander to complete the memorandum.

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Hazardous Material Response

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.

412.3.1 SUPERVISOR RESPONSIBILITY

When a Watch Commander 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.

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Hostage and Barricade Incidents

414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

414.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

(a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

(b) Unlawfully held against his/her will under threat or actual use of force.

414.2 POLICY

It is the policy of the Atherton Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

414.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

414.3.1 EMERGENCY COMMUNICATIONS

Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record,

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or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

(a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i).

(b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately.

(c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).

(d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § 629.50 is made within 48 hours of the beginning of the eavesdropping.

(e) The contents of any oral communications overheard are recorded on tape or other comparable device.

414.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

414.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

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(d) Provide responding emergency personnel with a safe arrival route to the location.

(e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

(f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.

(g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.

(h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer (PIO).

(j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

(k) Establish a command post.

414.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

(d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.

(e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(f) Provide responding emergency personnel with a safe arrival route to the location.

(g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.

(h) Coordinate pursuit or surveillance vehicles and control of travel routes.

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(i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.

(j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.

(k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

(l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.

(m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

414.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a Special Weapons and Tactics Team (SWAT) response if appropriate and apprising the SWAT Commander of the circumstances. In addition, the following options should be considered:

(a) Ensure injured persons are evacuated and treated by medical personnel.

(b) Ensure the completion of necessary first responder responsibilities or assignments.

(c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.

(d) Establish a command post location as resources and circumstances permit.

(e) Designate assistants who can help with intelligence information and documentation of the incident.

(f) If it is practicable to do so, arrange for video documentation of the operation.

(g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).

1. When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists involving immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Department obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption. If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.

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(h) Ensure adequate law enforcement coverage for the remainder of the Town during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or Dispatch.

(i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.

(j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.

(k) Debrief personnel and review documentation as appropriate.

414.6 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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Swatting With On-Site Security

415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for swatting situations.

415.1.1 DEFINITIONS

Definitions related to this policy include:

Swatting situation - An incident where a person calls the police department to falsely report an emergency with the intent of getting a response to a location where no emergency exists.

415.2 POLICY

It is the policy of the Atherton Police Department to determine the validity of any potential swatting incident and respond appropriately.

415.3 RESPONSE TO A SUSPECTED SWATTING CALL

During or immediately after a suspected swatting call has occurred, the dispatcher shall open the premise file for the address the caller has provided. In the premise file under the notes section there will be a challenge phrase with the appropriate responses. The dispatcher will contact the on-site security team and say/ask the challenge phrase/question.

The on-site security officer will respond with a one of two choices. The response from the on-site security officer will dictate how Atherton Police Officers respond.

If the on-site security officer responds with the appropriate response associated with a real incident at that address, then Atherton Police Officers shall immediately respond to the address and treat the Swatting call the same as a hostage and/or barricaded subject situation.

If the on-site security officer responds with the response associated with “everything is fine,” then Atherton Police Officers shall treat the suspected Swatting call as a welfare check.

This call for service will be a minimum two officer response. The way on-site security answers the challenge phrase will dictate the level of response from the Atherton Police Department.

Things for dispatchers to listen for when receiving a call they believe to be swatting

(a) Obtain the complete address.

(b) Ask where the caller is calling from.

(c) Get a good call back number.

(d) How many suspects?

(e) Ask for a description of the suspect(s).

(f) Ask about any injuries.

(g) Does the caller have an accent?

(h) Is there any background noise? (i.e. people talking, music)

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Swatting With On-Site Security

415.4 SUPERVISOR RESPONSIBILITIES

Upon being notified that an alleged swatting incident is an actual hostage or barricade situation, the supervisor should immediately respond to the scene and handle the incident in accordance with the policies and procedures set forth in Lexipol Policy Section 414, Hostage and Barricade Incidents.

415.5 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for the completion and/or coordination of incident reports.

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Response to Bomb Calls

416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Atherton Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

416.2 POLICY

It is the policy of the Atherton Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

416.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Watch Commander is immediately advised and informed of the details. This will enable the Watch Commander to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

416.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

416.4.1 ATHERTON POLICE DEPARTMENT FACILITY

If the bomb threat is against the Atherton Police Department facility, the Watch Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

416.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Atherton Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Watch Commander deems appropriate.

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416.4.3 FEDERAL BUILDING OR PROPERTY

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

416.5 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the Town of Atherton, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

(a) The location of the facility.

(b) The nature of the threat.

(c) Whether the type and detonation time of the device is known.

(d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.

(e) Whether the individual is requesting police assistance at the facility.

(f) Whether there are any internal facility procedures regarding bomb threats in place, such as:

1. No evacuation of personnel and no search for a device.
2. Search for a device without evacuation of personnel.
3. Evacuation of personnel without a search for a device.
4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Watch Commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

416.5.1 ASSISTANCE

The Watch Commander should be notified when police assistance is requested. The Watch Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Watch Commander determine that the Department will assist or control such an incident, he/she will determine:

(a) The appropriate level of assistance.

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(b) The plan for assistance.

(c) Whether to evacuate and/or search the facility.

(d) Whether to involve facility staff in the search or evacuation of the building.

1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
2. The safety of all participants is the paramount concern.

(e) The need for additional resources, including:

1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

416.6 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

(a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.

(b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.

(c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:

1. Two-way radios
2. Cell phones
3. Other personal communication devices

(d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

(e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.

(f) A safe access route should be provided for support personnel and equipment.

(g) Search the area for secondary devices as appropriate and based upon available resources.

(h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.

(i) Promptly relay available information to the Watch Commander including:

1. The time of discovery.

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2. The exact location of the device.
3. A full description of the device (e.g., size, shape, markings, construction).
4. The anticipated danger zone and perimeter.
5. The areas to be evacuated or cleared.

416.7 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

416.7.1 CONSIDERATIONS

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

(a) Assess the scope of the incident, including the number of victims and extent of injuries.
(b) Request additional personnel and resources, as appropriate.
(c) Assist with first aid.
(d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
(e) Assist with the safe evacuation of victims, if possible.
(f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
(g) Preserve evidence.
(h) Establish an outer perimeter and evacuate if necessary.
(i) Identify witnesses.

416.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Watch Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

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Response to Bomb Calls

416.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

416.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Watch Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

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Mental Illness Commitments

418.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

418.2 POLICY

It is the policy of the Atherton Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

418.3 AUTHORITY

An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, officers are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

(a) An individual who is providing or has provided mental health treatment or related support services to the person

(b) A family member

(c) The person subject to the determination or anyone designated by the person

418.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

(a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.

(b) 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.

418.3.2 SAN MATEO COUNTY MENTAL ASSESSMENT AND REFERRAL TEAM (SMART)

The San Mateo County Mental Assessment and Referral Team (SMART) is an innovative way to assess and manage people having a behavioral emergency in the "field" setting. The SMART Program is a joint venture between San Mateo County and American Medical Response.

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The SMART Program can provide referral options which are not currently available, keep the client from entering the 5150 pathway if not needed, and is goal-driven to provide the client with services to best meet their needs.

The SMART Program uses a Paramedic specially trained and experienced in mental health assessment, management of behavioral emergencies, and various client resources in the County. The SMART Program can offer options for clients not requiring 5150 actions. In addition, the SMART Paramedic will be able to consult with County staff or the SMART Clinician to determine the best care plan for the specific client.

If the SMART Paramedic is called to assist, and the determination is made the client is in need of a 5150 action, the SMART Paramedic will assist with the action. The Department member will be required to complete the necessary paperwork and comply with all of the parameters of this General Order.

418.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

(a) Available information that might assist in determining the cause and nature of the person’s action or stated intentions.

(b) Community or neighborhood mediation services.

(c) Conflict resolution and de-escalation techniques.

(d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

418.4.1 SECURING OF PROPERTY

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual’s personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person’s property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

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418.5 TRANSPORTATION

When transporting any individual for a 5150 commitment, the transporting officer should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Watch Commander approval is required before transport commences.

418.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

418.7 DOCUMENTATION

The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for officer involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

San Mateo Medical Center's Psychiatric Emergency Services (PES) requests that officers contact PES if a 5150 W&I hold is placed and the officer does not accompany the patient to PES. PES can be reached at 650-573-2662 or 650-573-2663. It is requested the officer ask to speak with a nurse and discuss the reasons for the 5150 W&I hold.

418.7.1 ADVISEMENT

The officer taking a person into custody for evaluation shall advise the person of:

(a) The officer’s name and agency.

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(b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.

(c) The name of the facility to which the person is being taken.

(d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

418.8 MENTAL ILLNESS COMMITMENT AND INSTRUCTION FORM

Below are the following:

(a) Application for 72 Hour Detention for Evaluation and Treatment form

(b) Instruction Form to complete the above

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Mental Illness Commitments

418.8.1 APPLICATION FORM

State of California - Health and Human Services Agency — Department of Mental Health

APPLICATION FOR 72 HOUR DETENTION FOR EVALUATION AND TREATMENT
MH 302 (Rev. 08/04) Front

Confidential Client/Patient Information
See California WIC Section 5328 and
HIPAA Privacy Rule 45 C.F.R. § 164.508

Welfare and Institutions Code (WIC), Section 5157, requires that each person when first detained for psychiatric evaluation be given certain specific information orally, and a record be kept of the advisement by the evaluating facility.

☐ **Advisement Complete** ☐ **Advisement Incomplete**

Good Cause for Incomplete Advisement

Advisement Completed By | Position | Date

DETAINMENT ADVISEMENT

My name is _____

I am a (Peace Officer, etc.) with (Name of Agency). You are not under criminal arrest, but I am taking you for examination by mental health professionals at (Name of Facility).

You will be told your rights by the mental health staff.

If taken into custody at his or her residence, the person shall also be told the following information in substantially the following form:

You may bring a few personal items with you which I will have to approve. You can make a phone call and/or leave a note to tell your friends and/or family where you have been taken.

To _____

Application is hereby made for the admission of _____

Residing at _____, California, for 72-hour treatment and evaluation pursuant to Section 5150, (adult) et seq. or Section 5585 et seq. (minor), of the WIC. If a minor, to the best of my knowledge, the legally responsible party appears to be / is: (Circle one) Parent; Legal Guardian; Juvenile Court as a WIC 300; Juvenile Court as a WIC 601/602; Conservator. If known, provide names, address and telephone number:

_____

_____

_____

* * * * * * * * * * *

The above person's condition was called to my attention under the following circumstances: (see reverse side for definitions)

The following information has been established: (Please give sufficiently detailed information to support the belief that the person for whom evaluation and treatment is sought is in fact a danger to others, a danger to himself; herself and/or gravely disabled.)

Based up on the above information it appears that there is probable cause to believe that said person is, as a result of mental disorder:

☐ **A danger to himself/herself.** ☐ **A danger to others.** ☐ **Gravely disabled adult.** ☐ **Gravely disabled minor.**

Signature, title and badge number of peace officer, member of attending staff of evaluation facility or person designated by county. | Date | Time | Phone

Name of Law Enforcement Agency or Evaluation Facility/Person | Address of Law Enforcement Agency or Evaluation Facility/Person

☐ Weapon was confiscated and detained person notified of procedure for return of weapon pursuant to Section 8102 WIC.
(officer/unit & phone #) _____

NOTIFICATIONS TO BE PROVIDED TO LAW ENFORCEMENT AGENCY

NOTIFICATION OF PERSON'S RELEASE FROM AN EVALUATION AND TREATMENT FACILITY IS REQUESTED BY THE REFERRING PEACE OFFICER BECAUSE:

☐ Person has been referred under circumstances in which criminal charges might be filed pursuant to Sections 5152.1 and 5152.2 WIC.
Notify (officer/unit & telephone #) _____

☐ Weapon was confiscated pursuant to Section 8102 WIC.
Notify (officer/unit & telephone #) _____

SEE REVERSE SIDE FOR INSTRUCTIONS

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Mental Illness Commitments

418.8.2 APPLICATION FORM INSTRUCTIONS

State of California - Health and Human Services Agency — Department of Mental Health

APPLICATION FOR 72 HOUR DETENTION FOR EVALUATION AND TREATMENT
MH 302 (Rev. 08/04) Back

DEFINITIONS

GRAVELY DISABLED

"Gravely Disabled" means a condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing and shelter. SECTION 5008(h) WIC

"Gravely Disabled Minor" means a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. Mental retardation, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder. SECTION 5585.25 WIC

PEACE OFFICER

"Peace Officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility. SECTION 5008(i) WIC

INSTRUCTIONS FOR SECTION 5152.1, 5152.2 AND 5585 WIC

Section 5152.1 WIC

The professional person in charge of the facility providing 72-hour evaluation and treatment, or his or her designee, shall notify the county mental health director or the director's designee and the peace officer who makes the written application pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, when the person has been released after 72-hour detention, when the person is not detained, or when the person is released before the full period of allowable 72-hour detention if all of the conditions apply:

(a) The peace officer requests such notification at the time he or she makes the application and the peace officer certifies at that time in writing that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.
(b) The notice is limited to the person's name, address, date of admission for 72-hour evaluation and treatment, and date of release.

If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information obtained pursuant to the notification requirements of this section, the officer agency, or designee shall destroy that record two years after receipt of notification.

Section 5152.2 WIC

Each law enforcement agency within a county shall arrange with the county mental health director a method for giving prompt notification to peace officer pursuant to Section 5152.1 WIC.

Section 5585 et seq. WIC

Section 300 WIC is a minor who is under the jurisdiction of the Juvenile Court because of abuse (physical or sexual), neglect or exploitation.

Section 601 WIC is a minor who is adjudged a ward of the Juvenile Court because of being out of parental control.

Section 602 WIC is a minor who is adjudged a ward of the Juvenile Court because of crimes committed.

Section 8102 WIC (EXCERPTS FROM)

(a) Whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.
"Deadly weapon," as used in this section, has the meaning described by Section 8100.

(b) Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated.
Where the person is released without judicial commitment, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated.

Health facility personnel shall notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.

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418.9 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

(a) Arrest the individual when there is probable cause to do so.

(b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.

(c) Facilitate the individual's transfer to jail.

(d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

418.10 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

418.10.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Detective Bureau, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

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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.

418.11 TRAINING

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

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Cite and Release Policy

420.1 PURPOSE AND SCOPE

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

420.2 POLICY

It is the policy of the Atherton Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Department's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

420.3 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.

420.3.1 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting officer should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

420.4 NON-RELEASE

420.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

(a) Misdemeanor domestic battery (Penal Code § 243(e)(1))

(b) Felony domestic battery (Penal Code § 273.5)

(c) Serious or violent felonies (Penal Code § 1270.1(a)(1))

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(d) Felony intimidation of witnesses and victims (Penal Code § 136.1)

(e) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)

(f) Stalking (Penal Code § 646.9)

(g) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

420.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

(a) The person arrested is so intoxicated that they could be a danger to themselves or to others. Release may occur as soon as this condition no longer exists.

(b) The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety.

(c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.

(d) There are one or more outstanding arrest warrants for the person (see Misdemeanor Warrants elsewhere in this policy).

(e) The person could not provide satisfactory evidence of personal identification.

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

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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 Center.

420.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any of the following conditions exist:

(a) The misdemeanor cited in the warrant involves violence.

(b) The misdemeanor cited in the warrant involves a firearm.

(c) The misdemeanor cited in the warrant involves resisting arrest.

(d) The misdemeanor cited in the warrant involves giving false information to a peace officer.

(e) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.

(f) The person requires medical examination or medical care or was otherwise unable to care for their own safety.

(g) The person has other ineligible charges pending against themselves.

(h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.

(i) The person refuses to sign the notice to appear.

(j) The person cannot provide satisfactory evidence of personal identification.

(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.

420.6 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Atherton Town codes

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All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Detective Bureau for further action including diversion.

420.7 REQUESTING CASE NUMBERS

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an officer from requesting a case number if the officer feels the situation should be documented more thoroughly in a case report.

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Foreign Diplomatic and Consular Representatives

422.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Atherton Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

422.2 POLICY

The Atherton Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

422.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

(a) Notify a supervisor.

(b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.

(c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.

(d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.

(e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

422.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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(a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.

(b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.

(c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.

1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.

(d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:

1. Diplomatic-level staff of missions to international organizations and recognized family members
2. Diplomatic agents and recognized family members
3. Members of administrative and technical staff of a diplomatic mission and recognized family members
4. Career consular officers, unless the person is the subject of a felony warrant

(e) The following persons may generally be detained and arrested:

1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
2. Support staff of missions to international organizations
3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
4. Honorary consular officers
5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

422.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

422.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

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Foreign Diplomatic and Consular Representatives

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

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Foreign Diplomatic and Consular Representatives

(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 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

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Rapid Response and Deployment

424.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers in situations that call for rapid response and deployment.

424.2 POLICY

The Atherton Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

424.3 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action officers should consider:

(a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.

(b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.

(c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.

(d) Whether the suspect can be contained or denied access to victims.

(e) Whether the officers have the ability to effectively communicate with other personnel or resources.

(f) Whether planned tactics can be effectively deployed.

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(g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

424.3.1 RESPONSE TO SCHOOL THREATS

Upon receiving a threat or perceived threat from a school official that involves grades 6 to 12, officers shall immediately investigate and conduct a threat assessment. The investigation shall include a review of the firearm registry of the California Department of Justice. A reasonable search of the school at issue shall be conducted when the search is justified by reasonable suspicion that it would produce evidence related to the threat or perceived threat (Education Code § 49394).

For purposes of this subsection a "threat" or "perceived threat" means any writing or action of a pupil that creates a reasonable suspicion that the pupil is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the pupil. It may also include a warning by a parent, pupil, or other individual (Education Code § 49390).

424.4 CONSIDERATIONS

When dealing with a crisis situation members should:

(a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.

(b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.

(c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.

(d) Attempt, if feasible and based upon the suspect’s actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

424.5 PLANNING

The Commander should coordinate critical incident planning. Planning efforts should consider:

(a) Identification of likely critical incident target sites, such as schools, entertainment and sporting event venues.

(b) Availability of building plans and venue schematics of likely critical incident target sites.

(c) Communications interoperability with other law enforcement and emergency service agencies.

(d) Training opportunities in critical incident target sites, including joint training with site occupants.

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(e) Evacuation routes in critical incident target sites.

(f) Patrol first-response training.

(g) Response coordination and resources of emergency medical and fire services.

(h) Equipment needs.

(i) Mutual aid agreements with other agencies.

(j) Coordination with private security providers in critical incident target sites.

424.6 TRAINING

The Training Manager should include rapid response to critical incidents in the training plan. This training should address:

(a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.

(b) Communications interoperability with other law enforcement and emergency service agencies.

(c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.

  (a) This should include the POST terrorism incident training required for officers assigned to field duties (Penal Code § 13519.12).

(d) First aid, including gunshot trauma.

(e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

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Immigration Violations

428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Atherton Police Department relating to immigration and interacting with federal immigration officials.

428.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

Criminal immigration violation - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

Immigration enforcement - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

Judicial warrant - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

428.2 POLICY

It is the policy of the Atherton Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or California constitutions.

428.4 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for

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reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

428.4.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

(a) Transfer the person to federal authorities.

(b) Transfer the person to jail.

428.5 FEDERAL REQUESTS FOR ASSISTANCE

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

428.6 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

(a) Sending information to, or requesting or receiving such information from federal immigration officials

(b) Maintaining such information in department records

(c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

428.6.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

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Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

(a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).

(b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.

(c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(d) The individual is a current registrant on the California Sex and Arson Registry.

(e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

428.6.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with information as to whether the Atherton Police Department intends to comply with the request (Government Code § 7283.1).

If the Atherton 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).

428.6.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Atherton Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

428.6.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

(a) Transfer is authorized by a judicial warrant or judicial probable cause determination.

(b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(c) The individual is a current registrant on the California Sex and Arson Registry.

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(d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

428.7 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the commander to oversee the handling of any related case. The commander 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.

428.7.1 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.

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Immigration Violations

428.7.2 REPORTING TO LEGISLATURE

The commanderr 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).

428.7.3 POLICE REPORTS

Upon request, the Custodian of Records 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).

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Emergency Utility Service

430.1 PURPOSE AND SCOPE

The Town Public Works Department, Pacific Gas and Electric Comany (P.G. & E.), and California Water Service Company (Cal Water) have personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this Department should be handled in the following manner.

430.1.1 BROKEN WATER LINES

California Water Service Company provides water service to the Town of Atherton.

Cal Water's responsibility ends at the water meter. Any break or malfunction in the water system from the water meter to the citizen's residence is the customer's responsibility. Cal Water can only turn off the valve at the meter. The citizen can normally accomplish this.

If a break occurs on Cal Water's side of the meter, Cal Water personnel should be called as soon as practical by Dispatch.

430.1.2 ELECTRICAL LINES AND NATURAL GAS LINES

The Town of Atherton does not maintain electrical or natural gas lines. When an electrical or natural gas line poses a hazard, an officer(s) should be dispatched to protect against personal injury or property damage that might be caused by these lines, or to assist in the evacuation of residents as needed. Pacific Gas and Electric Company, as well as the Menlo Park Fire District, should be promptly notified by Dispatch.

430.1.3 RESERVOIRS, PUBLIC WATER EQUIPMENT, CREEK

Cal Water maintains the reservoir and public water equipment. The Town of Atherton maintains the creeks within the Town. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

430.1.4 SEWER LINES

The Town of Atherton does not maintain the sewer lines within the Town. These lines are maintained by either the West Bay Sanitation District or the Fair Oaks Sanitation District. In the event of a sewer line back-up, Dispatch will call the appropriate sanitation district based upon the address of the occurrence.

430.1.5 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by, and located in, the Dispatch Center.

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Emergency Utility Service

430.2 TRAFFIC SIGNAL MAINTENANCE

The Town of Atherton contracts with a private maintenance company to furnish maintenance for non-El Camino Real (SR-82) traffic signals. The traffic signals on El Camino Real (SR-82) are maintained by the State of California (CalTrans).

430.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer will advise Dispatch of the location and problem with the signal. The dispatcher shall make the necessary notification to the proper maintenance agency.

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Walsh Road Siren - Emergency Alerting System

431.1 PURPOSE

The Town of Atherton Primary Public Warning System is the Emergency Alerting System, designed for the broadcast media to disseminate emergency public information. In lieu of this system, Atherton has implemented an evacuation siren on Walsh Road specifically for residents with limited evacuation/egress routes. This system is located upon the Bear Gulch Reservoir property, and is used to alert the public during severe or escalating conditions that may jeopardize life, property and environment within their specific neighborhood.

431.2 DEFINITION

The Walsh Road Emergency Siren will be activated either through the Menlo Park Fire Protection District or the Atherton Police Department for either of the following:

(a) **Dam Breech or Failure -** An opening, tear or rupture displacing a large volume of water within the selected area; rapidly rising flood waters causing overflow and massive runoff into the community.

(b) **Wild Land Fire** - Any uncontrolled fire in combustible vegetation that occurs in the countryside or a wilderness area; wildfire differs from other fires by its extensive size, the speed at which it can spread out from its original sources, its potential to change direction unexpectedly, and its ability to jump gaps such as roads, rivers and fire breaks.

431.3 SIREN AUTHORIZED PERSONNEL OR AGENCIES

The Menlo Park Fire District will be the primary response agency authorized to request the activation and manual termination of the Walsh Road Siren; the Atherton Police Department will serve as the alternate if deemed necessary.

Authorizing Grade:

(a) Menlo Park Fire District Captain or higher.

(b) Atherton Police Sergeant or higher.

431.4 SIREN RESPONSIBILITIES

431.4.1 FIRE DEPARTMENT

(a) Primary lead agency on hazard identification and providing situational awareness to the Police Department, Cal-Water, Department of Public Works and Public Safety Communication (PSC) if applicable.

(b) Establish evacuation routes and safety zones for residents of Walsh Road.

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(c) Request PSC activate Walsh Road Siren remotely if situation poses threat to life, property and environment. The requester shall indicate whether the activation is for a fire or dam breach.

(d) Send a representative to manually override the system if it fails to activate remotely.

(e) Notify other supporting public and private entities of activation based on applicable services related to dam breech / wild land fire.

(f) Consider activating Town Emergency Operation Plan if incident escalates beyond resource capabilities reference Annex 1E.

(g) Request PSC silence audible siren once evacuation is completed and / or after 3 minutes of run time. Re-activation of siren can be administered by PSC if requested for an additional 3 minute cycle in order to extend evacuation time for residents if warranted.

431.4.2 POLICE DEPARTMENT

(a) Serve as alternate agency to notify PSC to activate siren remotely. A representative will be sent to manually override the system if it fails to activate remotely.

(b) Send out an alert message through Rapid Notify.

(c) Provide scene control and assist with evacuation procedures if necessary.

(d) The Watch Commander will verify an SMC Alert was sent via the Office of Emergency Services (OES).

431.4.3 PUBLIC WORKS DIRECTOR OR CALIFORNIA WATER SERVICE SYSTEM

(a) Provide support and assistance with resources if available.

(b) Serve as technical advisory on Dam Breech incidents.

431.4.4 PUBLIC SAFETY COMMUNICATIONS

(a) Activate siren remotely upon request from authorized personnel.

(b) Terminate siren remotely upon request from authorized personnel.

1. Note: Siren automatically terminates after 3 minutes.

(c) Record time of ACTIVATION and time of TERMINATION.

431.5 SIREN TONES

In the event of an emergency, the following audible alarms will be sounded to notify Walsh Road residents to evacuate:

(a) Siren Tone / String 1: Continuous Siren = Fire

(b) Siren Tone / String 2: Intermittent Siren = Dam Breach

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(c) Siren Tone / String 3: Cancellation

431.6 TESTING AND MAINTENANCE

(a) Siren will be tested 2 times per year occurring during flood and fire season.

(b) Emergency Service Coordinator (ESC) is responsible for working with PSC on scheduling regular testing during the 1st Monday of January and June, and is authorized to activate siren within such periods.

(c) ESC is responsible for visual siren physical inspection:

1. Observe the speaker cluster and siren cabinet.
2. Check all conduit for watertight connections and entrance into the siren cabinet.
3. Inspect the AC service for damage, blown fuses, degraded power connections and integrity of the lighting arrestor.
4. Observe the pole for any shifting and / or leaning. Poles that are not plumb will not properly direct alerting sounds.
5. Examine entire station for any signs of vandalism or forced entry.

431.7 WALSH ROAD ACTION FLOW CHART

See attachment: Walsh Road Activation Chart 001.jpg

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Field Training Officer Program

436.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer's transition from the academic setting to the actual performance of general law enforcement duties of the Atherton Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive, and professional manner.

436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training, and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

436.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

(a) Desire to be an FTO

(b) Minimum of four years of patrol experience, two of which shall be with this department

(c) Demonstrated ability as a positive role model

(d) Participate and pass an internal oral interview selection process

(e) Evaluation by supervisors and current FTOs

(f) Possess a POST Basic certificate

436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer's Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Patrol 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

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(c) Maintain and ensure FTO/trainee performance evaluations are completed

(d) Maintain, update, and issue the Field Training Manual to each trainee

(e) Monitor individual FTO performance

(f) Monitor overall FTO Program

(g) Maintain liaison with FTO coordinators of other agencies

(h) Maintain liaison with academy staff on recruit performance during the academy

(i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator's Course within one year of appointment to this position (11 CCR 1004(c)).

436.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Atherton Police Department who has successfully completed a POST approved Basic Academy.

436.5 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.

436.5.1 FIELD TRAINING MANUAL

Each new officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Atherton 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 Atherton Police Department.

436.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

436.6.1 FIELD TRAINING OFFICER

The FTO will be responsible for the following:

(a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.

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(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.

436.6.2 FIELD TRAINING ADMINISTRATOR

The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her immediate supervisor.

436.6.3 TRAINEE

At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTOs and on the Field Training Program.

436.7 DOCUMENTATION

All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

(a) Daily Trainee Performance Evaluations

(b) End-of-phase evaluations

(c) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training

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Obtaining Air Support

438.1 PURPOSE AND SCOPE

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

438.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

438.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, the Watch Commander, or his/her designee, will call the closest agency having helicopter support available. The Watch Commander on duty will apprise that agency of the specific details of the incident prompting the request.

438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

(a) When the helicopter is activated under existing mutual aid agreements.

(b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard.

(c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community.

(d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard.

(e) Vehicle pursuits.

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.

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Contacts and Temporary Detentions

440.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

440.1.1 DEFINITIONS

Definitions related to this policy include:

Consensual encounter - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person’s freedom of movement.

440.2 POLICY

The Atherton Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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440.3 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Atherton Police Department to strengthen community involvement, community awareness, and problem identification.

440.3.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

(a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act

(b) Actions suggesting that he/she is engaged in a criminal activity

(c) Presence in an area at an inappropriate hour of the day or night

(d) Presence in a particular area is suspicious

(e) Carrying of suspicious objects or items

(f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon

(g) Location in proximate time and place to an alleged crime

(h) Physical description or clothing worn that matches a suspect in a recent crime

(i) Prior criminal record or involvement in criminal activity as known by the officer

440.4 PAT-DOWN SEARCHES

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.

(b) Where more than one suspect must be handled by a single officer.

(c) The hour of the day and the location or neighborhood where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.

(e) The actions and demeanor of the suspect.

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(f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officershould be positioned to ensure safety and should not be involved in the search.

440.5 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

440.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph.

440.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

440.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Watch Commander with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Watch Commander should review and forward the photograph to one of the following locations:

(a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Watch Commander will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.

(b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Center.

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When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

440.5.4 SUPERVISOR RESPONSIBILITIES

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

440.6 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

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

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

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

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

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Criminal Organizations

442.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Atherton Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

442.1.1 DEFINITIONS

Definitions related to this policy include:

Criminal intelligence system - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

442.1.2 DISCLAIMER

It is noted the Atherton Police Department currently does not keep track of gang member information or gang member files. However, should the Atherton Police Department implement a gang member database, this sub-section will be removed and the Atherton Police Department will follow this policy as listed.

442.2 POLICY

The Atherton Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

442.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

(a) Members using any such system are appropriately selected and trained.

(b) Use of every criminal intelligence system is appropriately reviewed and audited.

(c) Any system security issues are reasonably addressed.

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Criminal Organizations

442.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records Center. Any supporting documentation for an entry shall be retained by the Records Center 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 Center are appropriately marked as intelligence information. The Records Supervisor may not purge such documents without the approval of the designated supervisor.

442.3.2 GANG DATABASES

The Chief of Police may approve participation by the gang unit in a shared criminal gang intelligence database, such as CALGANG®. Members must obtain the requisite training before accessing any such database (11 CCR 751.6).

It is the gang unit supervisor's responsibility to determine whether any report or FI contains information that would qualify for entry into the database. Prior to designating any person as a suspected gang member, associate, or affiliate in a shared gang database; or submitting a document to the Attorney General's office for the purpose of designating a person in a shared gang database; or otherwise identifying the person in a shared gang database, the gang unit supervisor shall provide written notice to the person and, if the person is under the age of 18, to his/her parent or guardian of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of a minor. Notice shall also describe the process to contest the designation (Penal Code § 186.34).

The person, an attorney working on his/her behalf, or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate, or affiliate in a shared gang database accessible by the Department, the basis for that designation, and the name of the agency that made the designation. The Department shall respond to a valid request in writing within 30 days, and shall provide the information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest the designation by submitting written documentation, which shall be reviewed by the gang unit supervisor. If it is determined that the person is not a suspected gang member, associate, or affiliate, the person shall be removed from the database. The person and the parent or guardian shall be provided written verification of the department's decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

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The gang unit supervisor should forward reports or FIs to the Records Center after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Records Center 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).

442.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

442.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

(a) Must only be included upon documented authorization of the responsible department supervisor.

(b) Should not be originals that would ordinarily be retained by the Records Center or Property and Evidence Section, but should be copies of, or references to, retained documents such as copies of reports, FI forms, Dispatch records or booking forms.

(c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.

(d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

442.4.2 FILE REVIEW AND PURGING

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

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442.5 INFORMATION RECOGNITION

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

(a) Gang indicia associated with a person or residence.

(b) Information related to a drug-trafficking operation.

(c) Vandalism indicating an animus for a particular group.

(d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Manager to train members to identify information that may be particularly relevant for inclusion.

442.6 RELEASE OF INFORMATION

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

442.7 CRIMINAL STREET GANGS

The Detective Bureau supervisor should ensure that there are an appropriate number of department members who can:

(a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with:

1. Any organization, associate or group of three or more persons that meets the definition of a criminal street gang under Penal Code § 186.22(f).
2. Identification of a person as a criminal street gang member and criminal street gang-related crimes.
3. The California Street Terrorism Enforcement and Prevention Act (Penal Code § 186.21 et seq.), associated crimes and what defines a criminal street gang (Penal Code § 186.22).

(b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.

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(c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

442.8 TRAINING

The Training Manager should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

(a) The protection of civil liberties.

(b) Participation in a multiagency criminal intelligence system.

(c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.

(d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.

(e) The review and purging of temporary information files.

442.8.1 SHARED GANG DATABASE TRAINING

The Detective Sergeant should ensure that members who are authorized users of a shared gang database receive the required training from the California Department of Justice (DOJ) or an instructor certified by the DOJ that includes comprehensive and standardized training on the use of shared gang databases, and any other associated training required by the Department (Penal Code § 186.36; 11 CCR 751.6).

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Watch Commanders

444.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a Sergeant heads each watch.

444.2 DESIGNATION AS ACTING WATCH COMMANDER

When a Sergeant is unavailable for duty as Watch Commander, in most instances the senior qualified officer shall be designated as acting Watch Commander. This policy does not preclude designating a less senior officer as an acting Watch Commander when operational needs require or training permits.

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Supervisory Responsibilities

445.1 POLICY

(a) Quality supervision can show positive effects in the operation of the organization, in the protection from unnecessary liability, and in the building of public trust.

(b) High morale, confidence in the organization, and efficient discipline are interdependent qualities characteristic of a well-managed and properly supervised Department. Members in ranking and supervisory positions must effectively direct personnel and resources toward achieving the mission of this Department. Likewise, supervisors must recognize when personnel and resources have strayed from acceptable law enforcement practices and take action to correct these problems before they become injurious to the public or the organization.

(c) The misapplication of law enforcement procedures, and the resulting damage claims, continue to be popular liability and constitutional issues, exposing already strained Town treasuries to additional risk. Supervisors will protect themselves and the Town from liability by enforcing Departmental rules and regulations, and by promoting sound law enforcement practices.

(d) Public trust in the Department is also at issue when the community senses disorder and lack of control within the ranks of law enforcement officers. Supervisors and managers must not stand silent when a member engages in conduct that impugns the credibility and honesty of the profession.

445.2 STANDARDS OF SUPERVISION

(a) Supervisory and management personnel will:

1. Through routine inspection of the conduct, performance, and work product of their subordinates, ensure conformance with the standards, policies and procedures of the Department.
2. Respond to, and supervise critical or unusual incidents, to direct and control resources for efficient and proper resolution of the situation.
3. Recognize deficiencies in performance and misconduct by subordinates, and initiate or effect appropriate corrective action.
4. Report incidents of misconduct by any Department member to that member's command.
5. Continually monitor subordinates' actions and assignments as is necessary to deliver the most competent and efficient service to the community.

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Supervisory Responsibilities

6. Take affirmative action to maintain a non-hostile working environment free of discrimination by reason of sex, marital status, race, religion, national origin, and disability.

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Mobile Audio/Video

446.1 PURPOSE AND SCOPE

The Atherton Police Department has equipped marked patrol cars with Mobile Audio Video (MAV) recording systems to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

446.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the MAV system to transmit or store video or audio data in an active mode.

In-car camera system and Mobile Audio/Video (MAV) system- Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder and monitor.

MAV technician -Personnel certified or trained in the operational use and repair of MAVs, duplicating methods, storage and retrieval methods and procedures, and who have a working knowledge of video forensics and evidentiary procedures.

Recorded media - Audio-video signals recorded or digitally stored on a storage device or portable media.

446.2 POLICY

It is the policy of the Atherton Police Department to use mobile audio and video technology to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently.

446.2.1 RECORDED INCIDENTS

(a) Officers should notify the Watch Commander as soon as practical of any recorded sequences that may represent evidence. A notation should be made in the report documenting the incident and indicating that a recording was completed (specifically the car unit number and the time of the incident so the tape can be located at a later date).

(b) Officers shall not erase, tamper with, or in any other fashion alter the recordings.

(c) No recording or portion thereof may be copied without the approval of the Chief of Police or his/her designee. Copies may be made for court, training, or other approved purposes. Officers involved in recordings being reviewed for training & evaluation should be notified of such review. However, it is understood that for the integrity of certain investigations, notifying officers may be impractical.

(d) The property and evidence supervisor, or his or her designee, will be responsible for the storage of all recordings. All recordings will be stored for a minimum of one (1)

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year unless directed by the District Attorney or Chief of Police to hold the tapes for a longer period of time.

(e) When the recording media is full, it shall be downloaded or replaced in the proper manner.

446.3 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field. At the end of the shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment. Each officer should have adequate recording media for the entire duty assignment. In the event an officer works at a remote location and reports in only periodically, additional recording media may be issued. Only Atherton Police Department identified and labeled media with tracking numbers is to be used.

At the start of each shift, officers should test the MAV system's operation in accordance with manufacturer specifications and department operating procedures and training.

System documentation is accomplished by the officer recording his/her name, serial number, badge or PIN number and the current date and time at the start and again at the end of each shift. If the system is malfunctioning, the officer shall take the vehicle out of service unless a supervisor requests the vehicle remain in service.

446.4 ACTIVATION OF THE MAV

The MAV system is designed to turn on whenever the unit's emergency lights are activated. The system remains on until it is turned off manually. The audio portion is independently controlled and should be activated manually by the officer whenever appropriate. When audio is being recorded, the video will also record.

446.4.1 REQUIRED ACTIVATION OF MAV

This policy is not intended to describe every possible situation in which the MAV system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MAV. The MAV system should be activated in any of the following situations:

(a) All field contacts involving actual or potential criminal conduct within video or audio range:

1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
2. Priority responses
3. Vehicle pursuits

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4. Suspicious vehicles
5. Arrests
6. Vehicle searches
7. Physical or verbal confrontations or use of force
8. Pedestrian checks
9. DWI/DUI investigations including field sobriety tests
10. Consensual encounters
11. Crimes in progress
12. Responding to an in-progress call

(b) All self-initiated activity in which an officer would normally notify Dispatch

(c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:

1. Domestic violence calls
2. Disturbance of peace calls
3. Offenses involving violence or weapons

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

(e) Any other circumstance where the officer believes that a recording of an incident would be appropriate

446.4.2 CESSATION OF RECORDING

Once activated, the MAV system should remain on until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

446.4.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the MAV system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

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No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

446.4.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MAV systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made, including notification of Dispatch.

At reasonable intervals, supervisors should validate that:

(a) Beginning and end-of-shift recording procedures are followed.

(b) Logs reflect the proper chain of custody, including:

1. The tracking number of the MAV system media.
2. The date it was issued.
3. The law enforcement operator or the vehicle to which it was issued.
4. The date it was submitted.
5. Law enforcement operators submitting the media.
6. Holds for evidence indication and tagging as required.

(c) The operation of MAV systems by new employees is assessed and reviewed no less than biweekly.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, MAV technician or crime scene investigator properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

Supervisors may activate the MAV system remotely to monitor a developing situation, such as a chase, riot or an event that may threaten public safety, officer safety or both, when the purpose is to obtain tactical information to assist in managing the event. Supervisors shall not remotely activate the MAV system for the purpose of monitoring the conversations or actions of an officer.

446.5 REVIEW OF MAV RECORDINGS

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted or required by law.

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the department MAV technician or forensic

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media staff. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recordings may be reviewed in any of the following situations:

(a) For use when preparing reports or statements

(b) By a supervisor investigating a specific act of officer conduct

(c) By a supervisor to assess officer performance

(d) To assess proper functioning of MAV systems

(e) By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation

(f) By department personnel who request to review recordings

(g) By an officer who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment

(h) By court personnel through proper process or with permission of the Chief of Police or the authorized designee

(i) By the media through proper process or with permission of the Chief of Police or the authorized designee

(j) To assess possible training value

(k) Recordings may be shown for training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection

Employees desiring to view any previously uploaded or archived MAV recording should submit a request in writing to the Watch Commander. Approved requests should be forwarded to the MAV technician for processing.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

446.6 DOCUMENTING MAV USE

If any incident is recorded with either the video or audio system, the existence of that recording shall be documented in the officer's report. If a citation is issued, the officer shall make a notation on the back of the records copy of the citation, indicating that the incident was recorded.

446.7 RECORDING MEDIA STORAGE AND INTEGRITY

Once submitted for storage, all recording media will be labeled and stored in a designated secure area. All recording media that is not booked as evidence will be retained for a minimum of one year after which time it will be erased, destroyed or recycled in accordance with the established records retention schedule (Government Code § 34090.6).

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446.7.1 COPIES OF ORIGINAL RECORDING MEDIA
Original recording media shall not be used for any purpose other than for initial review by a supervisor. Upon proper request, a copy of the original recording media will be made for use as authorized in this policy.

Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. In the event that an original recording is released to a court, a copy shall be made and placed in storage until the original is returned.

446.7.2 MAV RECORDINGS AS EVIDENCE
Officers who reasonably believe that a MAV recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the Atherton Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

446.8 POLICY VIOLATION
Department employees should remember that the use of the MAV system is required as outlined in this policy. It is recognized that it may not always be possible to activate the MAV system, however, those occurrences should be the exception rather than the rule.

446.9 SYSTEM OPERATIONAL STANDARDS

(a) MAV system vehicle installations should be based on officer safety requirements and the vehicle and device manufacturer’s recommendations.

(b) The MAV system should be configured to minimally record for 30 seconds prior to an event.

(c) The MAV system may not be configured to record audio data occurring prior to activation.

(d) Unless the transmitters being used are designed for synchronized use, only one transmitter, usually the primary initiating officer’s transmitter, should be activated at a scene to minimize interference or noise from other MAV transmitters.

(e) Officers using digital transmitters that are synchronized to their individual MAV shall activate both audio and video recordings when responding in a support capacity. This is to obtain additional perspectives of the incident scene.

(f) With the exception of law enforcement radios or other emergency equipment, other electronic devices should not be used inside MAV-equipped law enforcement vehicles to minimize the possibility of causing electronic or noise interference with the MAV system.

(g) Officers shall not erase, alter, reuse, modify or tamper with MAV recordings. Only a supervisor, MAV technician or other authorized designee may erase and reissue previous recordings and may only do so pursuant to the provisions of this policy.

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(h) To prevent damage, original recordings shall not be viewed on any equipment other than the equipment issued or authorized by the MAV technician.

446.10 MAV TECHNICIAN RESPONSIBILITIES

The MAV technician is responsible for:

(a) Ordering, issuing, retrieving, storing, erasing and duplicating of all recorded media.

(b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected, the MAV technician:

1. Ensures it is stored in a secure location with authorized controlled access.
2. Makes the appropriate entries in the chain of custody log.

(c) Erasing of media:

1. Pursuant to a court order.
2. In accordance with established records retention policies, including reissuing all other media deemed to be of no evidentiary value.

(d) Assigning all media an identification number prior to issuance to the field:

1. Maintaining a record of issued media.

(e) Ensuring that an adequate supply of recording media is available.

(f) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the records retention schedule.

446.11 TRAINING

All members who are authorized to use the MAV system shall successfully complete an approved course of instruction prior to its use.

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Mobile Data Terminal Use

448.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Data Terminal (MDT) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and Dispatch.

448.2 GLOBAL POSITIONING SYSTEM (GPS)

Each MDT has been equipped with a GPS system to help in locating officers in the event of an emergency.

448.2.1 TAMPERING WITH GPS SYSTEM

The GPS system is to be kept in use as all times and is not to be unplugged, disabled, or otherwise tampered with by any employee of this department.

448.2.2 REPORTING OF DEFECTIVE GPS SYSTEM

If an employee notices the GPS system is not functioning properly, that employee is responsible for notifying the MDT coordinator to arrange for repair.

448.2.3 GPS SYSTEM DISCIPLINARY PROCEDURE

Without reasonable cause (collision, citizen complaint, etc.), the GPS system will not be used for disciplinary action against an employee of this Department.

448.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

448.4 POLICY

Atherton Police Department members using the MDT shall comply with all appropriate federal and state rules and regulations and shall use the MDT in a professional manner, in accordance with this policy.

448.5 RESTRICTED ACCESS AND USE

MDT use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDT system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDT by another member to their supervisors or Watch Commanders.

Use of the MDT system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions

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about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

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

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDT system unless directed to do so by a supervisor. Members are required to log off the MDT or secure the MDT when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

448.5.1 USE WHILE DRIVING

Use of the MDT by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical or safety needs should be transmitted over the radio.

Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

448.6 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Watch Commander or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MDT unless security or confidentiality prevents such broadcasting.

MDT and voice transmissions are used to document the member's daily activity. To ensure accuracy:

(a) All contacts or activity shall be documented at the time of the contact.

(b) Whenever the activity or contact is initiated by voice, it should be documented by a dispatcher.

(c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDT.

448.6.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MDT system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MDT when the vehicle is not in motion.

448.6.2 EMERGENCY ACTIVATION

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to

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assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor and the Watch Commander are notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

448.7 EQUIPMENT CONSIDERATIONS

448.7.1 MALFUNCTIONING MDT

Whenever possible, members will not use vehicles with malfunctioning MDTs. Whenever members must drive a vehicle in which the MDT is not working, they shall notify Dispatch. It shall be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the police radio.

448.7.2 BOMB CALLS

When investigating reports of possible bombs, members should not communicate on their MDTs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDT could cause some devices to detonate.

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Department Issued Cell Phones

449.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of Department Issued Cell Phones while on-duty or when used for authorized work-related purposes.

This policy refers to, but is not limited to, placing and receiving telephone calls, text messaging, blogging, e-mailing, using video or camera features, playing games and accessing websites or services on the Internet.

449.2 POLICY

The Atherton Police Department allows members to utilize Department Issued Cell Phones in the workplace, subject to certain limitations.

The inappropriate use of a Department Issued Cell Phone while on-duty may impair officer safety.

Members who have questions regarding the application of this policy, or the guidelines contained herein, are encouraged to seek clarification from supervisory personnel.

449.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any Department Issued Cell Phone, and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

449.4 DEPARTMENT ISSUED CELL PHONES

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, provide a Department Issued Cell Phone. Department Issued Cell Phones are provided as a convenience to facilitate on-duty performance only. Such devices and associated telephone numbers shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

449.5 USE OF DEPARTMENT ISSUED CELL PHONES

The following protocols shall apply to all Department Issued Cell Phones that are carried while on-duty, or used to conduct department business:

(a) Members may use a Department Issued Cell Phone to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. Department Issued Cell Phones shall not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.

(b) Members are prohibited from taking pictures, audio or video recordings, or making copies of any such picture or recording media unless it is directly related to official department 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.

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(c) Using Department Issued Cell Phones to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

449.6 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring that members under their command are provided appropriate training on the use of Department Issued Cell Phones consistent with this policy.

(b) Monitoring, to the extent practicable, Department Issued Cell Phones used in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a Department Issued Cell Phone. An investigation into improper conduct should be promptly initiated when circumstances warrant.

449.7 USE WHILE DRIVING

The use of a Department Issued Cell Phone 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 Department Issued Cell Phone.

Members who are operating department vehicles that are not authorized emergency vehicles shall not use a Department Issued Cell Phone while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the Department or other emergency services agency (Vehicle Code § 23123; Vehicle Code §23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

449.8 LOST OR DAMAGED DEPARTMENT ISSUED CELL PHONES

Lost or damaged Department Issued Cell Phones shall be immediately reported to a supervisor.

449.9 DEPARTMENT ISSUED CELL PHONE NUMBERS

Department Issued Cell Phone numbers shall not be given out to the general public by department staff members unless directly related to the course of their duties.

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Portable Audio/Video Recorders

450.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department 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 Atherton Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

450.2 POLICY

The Atherton Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

450.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity for this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

450.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, 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, APD 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.

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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.

At the end of each shift, officers shall place their department issued body worn camera on the docking device.

450.4.1 OFFICER SAFETY

Officer Safety takes Precedence over Recording Events. Officers should follow existing officer safety policies when conducting enforcement stops as outlined in Department policies and procedures. Officer safety should be the primary consideration when contacting citizens or conducting vehicle stops, not the ability to record an event.

450.4.2 GENERAL

(a) Only authorized personnel should use or be in possession of a BWC device.

(b) BWC equipment is for official use only and shall not be utilized for personal use.

(c) Officers shall not tamper with or dismantle any hardware or software component of any BWC device.

(d) The use of any other personal recording device for the same purpose is not authorized without permission of the Chief of Police or designee.

(e) All digital evidence collected using the BWC is considered a record of the Atherton Police Department and is for official use only.

(f) Accessing, copying, forwarding or releasing any digital evidence for other than official law enforcement use and contrary to this procedure is strictly prohibited. Public release of digital evidence is prohibited unless approved by the Chief of Police or their designee.

450.4.3 BWC MODES OF OPERATION

(a) The BWC system operates on rechargeable battery power. The user can view the recordings and add metadata to videos using a department provided software application. Viewing or adding metadata will not alter the video recording.

(b) Recording Mode is when the switch is activated and the camera is recording both audio and video.

450.4.4 STORAGE

(a) When not in use, the BWC devices shall be properly stored.

450.4.5 PRE-SHIFT INSPECTION

(a) Officers shall inspect their assigned BWC devices daily to ensure there is no visual damage and the device is in working order.

(b) Visual damage shall be reported to a supervisor.

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(c) Inoperable equipment shall be tagged and returned to the BWC Administrator as soon as possible.

450.4.6 CAMERA POSITION

(a) Officers shall wear the BWC in a position that provides for effective recording.

450.4.7 CAMERA ACTIVATION

Cameras shall be activated during traffic stops, calls for service, and any other appropriate police activities.

To assist personnel with required camera activation, cameras shall be activated when dispatched to a call for service.

450.4.8 REPAIR, REPLACEMENT, AND MAINTENANCE

(a) When a BWC malfunctions, the officer will notify his or her supervisor.

(b) The inoperable equipment will be taken to the BWC Administrator for repair as soon as possible.

(c) If the BWC Administrator cannot repair the unit, the manufacturer will be contacted to facilitate the repair. Repair and replacement of damaged or nonfunctional BWC equipment is coordinated through the BWC Administrator and performed through the manufacturer.

(d) This procedure will be followed for all BWC related equipment and accessories.

450.4.9 ADVISEMENTS ABOUT RECORDING

(a) Private citizens do not have a reasonable expectation of privacy when talking with police officers during the scope of an officer’s official duties, even when the contact is in a private residence. Therefore, officers are not required to give notice they are recording. However, if asked, officers shall advise citizens they are being recorded.

(b) Officers are not required to initiate or cease recording an event, situation or circumstance solely at the demand of a citizen.

(c) Officers and supervisors involved in the investigation of a complaint against a member of the police department must inform complainants and witnesses they are being recorded.

450.4.10 SURREPTITIOUS USE OF THE BWC

(a) Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation (Penal Code § 633).

(b) Members shall not surreptitiously record another department member without a court order or unless lawfully authorized by the Chief of Police or the authorized designee.

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450.4.11 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

450.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

(a) All enforcement and investigative contacts including stops and field interview (FI) situations

(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops

(c) Self-initiated activity in which a member would normally notify Dispatch

(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

450.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

450.5.2 ARRESTS

(a) Officers may stop recording when the arrestee is cooperative and safely secured inside a police car or law enforcement facility. If an arrestee becomes uncooperative, or if there is some evidentiary purpose, officers shall resume recording.

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(b) If an officer resumes recording, the camera shall remain recording until the officer no longer has contact with the subject.

450.5.3 SUSPECT INTERVIEWS

(a) Officers are encouraged to fully record suspect interviews. Officers shall not stop and start the recording during a suspect interview.

(b) When recording interviews, officers shall record any admonishments prior to the start of an interview.

450.5.4 PRIVATE RESIDENCES

(a) Private Citizens have a reasonable expectation of privacy in their homes. However, when officers are lawfully present in a home (warrant, consent, or exigent circumstances) in the course of official duties, there is no reasonable expectation of privacy.

450.5.5 SEARCHES

(a) During the execution of a search warrant, an arrest warrant, a Fourth Amendment waiver search, or a consent search in which the officer is looking for evidence or contraband.

450.5.6 SPECIAL EVENTS

(a) Officer’s use of BWCs at special events is at the discretion of the Commander.

450.5.7 VICTIM AND WITNESS INTERVIEWS

(a) Victim and witness interviews shall be recorded, unless exempted within this policy.

(b) Domestic violence victims often recant their statements as early as the following morning after a crime. Victims may also make their children unavailable for investigators or court to avoid their providing statements. For these reasons, domestic violence victims shall be recorded if the victim is willing. Officers shall also record the statements of children of domestic violence victims who are witnesses in these types of cases if the children are willing.

(c) BWCs shall be used during Sex Crimes or Child Abuse investigations to include statements of victims, witnesses, and interactions with parents of victims.

450.5.8 DEMONSTRATIONS

(a) As a general policy, Department personnel should video record or photograph peaceful demonstrations.

(b) When there is reason to believe that a planned event has the potential for unlawful activity, Commanding Officers should make the determination whether visual recording or photographing is appropriate.

(c) During demonstrations, if officers witness crimes occurring among the demonstrators and/or believe an arrest is likely, they shall begin recording.

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450.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

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-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.

450.6.1 GENERAL RULE

(a) Generally, officers should not record informal or casual encounters with members of the public. Officers should consider that recording people in some circumstances may inhibit sharing neighborhood information or developing strong ties between members of the community and officers.

450.6.2 CESSATION OF RECORDING

Once activated, the BWC shall remain on continuously until the member reasonably believes this 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 section 636).

450.6.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

450.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

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(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.

450.8 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the Chief of Police or the authorized designee.

(d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

450.9 CHARGING PROCEDURES

(a) Officers shall charge the BWC at the end of their shift. This will allow adequate time for the battery to recharge.

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Portable Audio/Video Recorders

450.10 ACCESSING UPLOADED DIGITAL EVIDENCE

(a) All those given permission associated with the BWC may review digital evidence.

(b) Using a Department computer, go to the Atherton Police Department Intranet site.

(c) Enter assigned user name and password. For help with problems, contact the BWC Administrator.

(d) Digital evidence can be viewed and / or copied from this location.

450.11 RETENTION OF DIGITAL EVIDENCE

(a) All recordings related to any criminal proceeding, claim filed, pending litigation, or a personnel complaint, shall be preserved until that matter is resolved and/or in accordance with the law.

450.12 REVIEWING IMPOUNDED DIGITAL EVIDENCE

(a) Officers may review their own recordings.

(b) Detectives are responsible for reviewing, updating and tracking digital evidence associated with their assigned cases.

(c) Digital evidence captured by the BWC is not all inclusive. The system captures a less broad and less detailed image than the totality of the human senses. An officer's recollection of specific details may be different than what is captured in digital evidence. Officers should review digital evidence prior to completing reports when necessary to ensure accuracy. Officers should review digital evidence prior to providing testimony at hearings, trial, or depositions.

(d) It is NOT the intent of the Department to review digital evidence for the purpose of general performance review, for routine preparation of performance reports, or to discover policy violations.

(e) Digital evidence may be viewed for administrative purposes limited to the following:

- Any incident in which a member of the Department is injured or killed during the performance of their duties.
- Any incident involving the use of force by a member of the Department, including canines, which results in injury or death.
- Any in-custody death.
- Any police pursuit.
- When any member of the Department intentionally or unintentionally discharges a firearm at a person regardless whether an individual is struck.
- When any member of the Department not involved in training intentionally or unintentionally discharges a Conductive Energy Weapon at a person, including the application of a drive stun.
- Officer involved traffic collisions.

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- Prior to the release of recordings in response to a proper legal request (e.g., in response to a subpoena or other court order).
- In preparation for a civil deposition or responding to an interrogatory where the incident arises from the employee's official duties.
- When preparing to testify in a criminal, civil, or administrative proceeding arising from the employee's official duties.
- For investigations undertaken by the Department, for the purpose of proving or disproving specific allegations of misconduct.
- For administrative proceedings, when digital evidence is used by the Department for the purpose of proving or disproving allegations of misconduct, only digital evidence relevant to the investigative scope should be viewed and retained by investigators. Information relevant to the recordings viewed and seized as evidence by investigators should be documented as part of the chronological summary of any investigation undertaken by the Department.

450.12.1 COMMANDER APPROVAL

In situations where there is a need to review digital evidence not covered by this procedure, the Commander must approve the request. Each situation will be evaluated on a case by case basis.

450.13 DISCOVERY OF MISCONDUCT

(a) Employees reviewing event recordings should remain focused on the incident or incidents in question and review only those recordings relevant to their investigative scope. If improper conduct is discovered during any review of digital evidence, the person who discovered the conduct in question should notify a supervisor. Nothing in this procedure prohibits addressing policy violations.

450.14 COPYING AND RELEASING DIGITAL EVIDENCE

(a) Digital evidence captured by the BWC shall be treated as official records and handled pursuant to existing Department policies and procedures. The digital evidence will be reviewed by the Commander or his / her designee before release.

450.15 DIGITAL EVIDENCE FOR TRAINING

(a) Officers and supervisors may find it useful, and are encouraged, to review recordings of incidents of which they were involved when beneficial for the purpose of conducting a tactical debrief. When an incident is recorded which may be of value as a training aid for a broad section of the Department, the recording officer or that officer's supervisor should contact the Commander who will review the digital evidence to determine the value of the incident for training.

450.16 COORDINATOR / ADMINISTRATOR RESPONSIBILITIES

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):

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(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.

In addition, the Coordinator/Administrator will be responsible for the following:

(a) Maintain and troubleshoot the BWC units and server application.

(b) Maintain a record of assigned BWC units and related equipment.

(c) Be proactive and able to complete minor repairs.

(d) Arrange for the warranty and non-warranty repair of the BWC units.

(e) Repair or replace BWC components (cameras, docking stations, etc).

(f) Maintain BWC equipment repair and maintenance records.

(g) Update software and system settings as necessary.

(h) Train officers on current policy and the proper use of BWC units.

450.17 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

(a) Incidents involving use of force by an officer

(b) Officer-involved shootings

(c) Incidents that lead to the detention or arrest of an individual

(d) Recordings relevant to a formal or informal complaint against an officer or the Atherton Police Department

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

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).

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450.17.1 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.

450.18 AUDIT OF THE PORTABLE AUDIO/VIDEO RECORDERS

A semi-annual audit of the Portable Audio/Video Recorders and the Portable Audio/Video Recorder system will be conducted by the Commander or designee.

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Medical Marijuana

452.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

452.1.1 DEFINITIONS

Definitions related to this policy include:

Cardholder - A person issued a current identification card.

Compassionate Use Act (CUA) (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

Identification card - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

Medical marijuana - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

Medical Marijuana Program (MMP) (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

Patient - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

Primary caregiver - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

Statutory amount - No more than 8 ounces of dried, mature, processed female marijuana flowers ("bud") or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).

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Medical Marijuana

452.2 POLICY

It is the policy of the Atherton 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 Atherton Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

452.3 INVESTIGATION

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

(a) Investigations when no person makes a medicinal claim.

(b) Investigations when a medicinal claim is made by a cardholder.

(c) Investigations when a medicinal claim is made by a non-cardholder.

452.3.1 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.

452.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

(a) The information contained in the card is false or falsified.

(b) The card has been obtained or used by means of fraud.

(c) The person is otherwise in violation of the provisions of the MMP.

(d) The person possesses marijuana but not for personal medical purposes.

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Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

452.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER

No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient's current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person's claim of having a physician's recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person's medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician's name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient's needs (Health and Safety Code § 11362.77).

452.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

(a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at a later time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.

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4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.

(b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient's needs:

1. The amount of marijuana recommended by a medical professional to be ingested.
2. The quality of the marijuana.
3. The method of ingestion (e.g., smoking, eating, nebulizer).
4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
5. Whether the marijuana is being cultivated indoors or outdoors.

(c) Before proceeding with enforcement related to collective gardens or dispensaries, officers should consider conferring with a supervisor, an applicable state regulatory agency or other member with special knowledge in this area, and/or appropriate legal counsel (Business and Professions Code § 26010; Business and Professions Code § 26060). Licensing, zoning, and other related issues can be complex. Patients, primary caregivers, and cardholders who collectively or cooperatively cultivate marijuana for medical purposes may be licensed or may have a defense in certain circumstances (Business and Professions Code § 26032; Business and Professions Code § 26033).

(d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

452.3.5 EXCEPTIONS

This policy does not apply to, and officers should consider taking enforcement action for the following:

(a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).

(b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).

(c) Smoking marijuana (Health and Safety Code § 11362.79):

1. In any place where smoking is prohibited by law.
2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
3. On a school bus.
4. While in a motor vehicle that is being operated.
5. While operating a boat.

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(d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

452.3.6 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).

452.4 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.

452.5 PROPERTY AND EVIDENCE SECTION SUPERVISOR RESPONSIBILITIES

The Property and Evidence Section 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 Section 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 Section 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 Section supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Detective Sergeant.

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Mountain Lion Incidents

453.1 POLICY

The Police Department is responsible for monitoring the presence of mountain lions within the Town limits. An expedient resolution to the presence of a mountain lion within a residential area may mitigate a potentially dangerous situation, and thereby safeguard citizens and police personnel. The ultimate responsibility for public safety rests with the Police Department.

California Fish and Game Code § 4800 states that a mountain lion is a specially protected mammal. It is unlawful to take, injure, possess, transport, import, or sell any mountain lion unless it can be demonstrated that the taking or injuring of the mountain lion was in selfdefense or in the defense of others. A member of the Department may remove or take any mountain lion that is perceived to be an imminent threat to public health or safety. The mere presence of a mountain lion in an area frequented by humans does not make the mountain lion an "immediate threat" according to this policy.

It is recognized that the Town of Atherton has many undeveloped areas where many species of wildlife exists. The mere sighting of a mountain lion is not necessarily a cause for concern or management action. Exceptions to this would be instances where the lion appears to be sick or injured, is in a residential neighborhood, or where the lion displays some abnormal behavior or condition.

453.2 PURPOSE

The purpose of this order is to establish guidelines for police personnel on managing and dealing with mountain lions found within the Town of Atherton.

453.3 ROLES AND RESPONSIBILITIES OF THE POLICE DEPARTMENT

Evaluate the threat and provide for public safety"'considerations may include:

(a) Monitoring the actions of the animal.

(b) Location of the animal.

(c) The time of day of the incident.

(d) Pedestrian traffic in the area.

(e) Schools and children in the area.

(f) The ability to safely and effectively evacuate/lockdown facilities.

453.3.1 GREEN ALERT-SIGHTINGS

A sighting is defined as the observation of a mountain lion displaying acceptable behavior. When a sighting occurs, the dispatcher will immediately notify the Watch Commander.

Acceptable Behavior-can be defined as any wildlife-human interaction where there is no unprovoked aggression from the animal toward the human. No immediate threat to humans exist. All indications are that the lion will return to the wilderness and will not compromise public safety.

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Mountain Lion Incidents

Acceptable behavior includes:

(a) A lion that retreats at the sight of humans.

(b) A lion that takes an aggressive posture followed by retreating or no further aggression.

(c) A lion that stays put while humans show no aggression.

(d) A lion that shows signs of curiosity while humans show no aggression.

In these types of cases the Atherton Police Department will investigate the incident, obtain witness information, document the incident, evaluate any patterns, and notify the Department of Fish & Game if appropriate.

453.3.2 YELLOW ALERT-INCIDENTS

An incident occurs when a mountain lion displays unacceptable behavior. When an incident occurs, the dispatcher will immediately notify the Watch Commander.

Unacceptable Behavior-occurs when a lion displays unprovoked aggression, repetitive acts of nuisance or unacceptable levels of damage to personal property, including domesticated animals. The threat to human life has occurred or is imminent. The lion's immediate departure to an uninhabited area is unlikely without further human contact, therefore, the lion is a threat to public safety.

Unacceptable Behavior includes:

- A lion that displays unacceptable aggression towards humans.
- A lion that exhibits forms of predatory behavior towards humans.
- A lion that continues to disturb, raid, or investigate humans or areas of high usage.
- A lion that displays a lack of fear of humans by aggressively approaching, or failing to retreat, when humans take aggressive actions.

In these types of cases:

(a) The Watch Commander and patrol officers should constantly monitor the threat to public safety by evaluating the actions of the animal, the location, the time of day, the amount of pedestrians/traffic in the area, and the ability to effectively evacuate and make notifications in a safe manner.

(b) Establish a perimeter and deploy personnel to control the mobility of the animal.

(c) Notify residents and schools in the area using the Town's Teleminder System, telephone calls, or any other alert method.

(d) Consider evacuations/lockdowns of public facilities including schools.

(e) Consider air support to track the animal.

(f) Notify the Department of Fish and Game.

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(g) Consider assigning a PIO and make press notifications and public service announcements.

(h) Consider distributing handbills and educational materials if the animal is NOT contained.

The Atherton Police Department will investigate the incident, obtain witness information, document the incident, evaluate any patterns, and notify the Department of Fish and Game if appropriate.

453.3.3 RED ALERT-ATTACK

In the event of a mountain lion attack on a human, the dispatcher will immediately notify the Watch Commander, and dispatch units to the scene.

The Police Department will:

(a) Attend to the medical needs of the victim.

(b) Secure the area.

(c) Notify residents and school officials of the potential danger using the Town's Teleminder System, telephone calls, or any other alert method.

(d) Notify the Department of Fish and Game.

(e) Coordinate with the Department of Fish and Game for the proper disposition of the animal.

(f) Work with the Department of Fish and Game to collect evidence and process the scene.

(g) Consider assigning a PIO and make press notifications.

(h) Consider distributing handbills and educational materials if the animal is not contained.

(i) Fax the necessary reports to the Department of Fish and Game.

453.4 DISPATCHING A MOUNTAIN LION

The Atherton Police Department should attempt to dispatch a mountain lion when it can be reasonably determined the lion has been involved in unprovoked aggression toward a human and/or is a threat to public safety.

Ensuring a safe and proper backdrop is essential prior to attempting to destroy the animal by using a firearm. All attempts must be made to insure that the fired round, should it pass through the animal, or the target is missed, does not inadvertently cause injury or unnecessary damage.

453.5 RESOURCES AND CONTACTS

Department of Fish and Game:

(a) Monterey Dispatch (831) 6492810

(b) Nonpublic number (831) 6492817

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Mountain Lion Incidents

(c) Air Support:

1. California Highway Patrol (707) 5514200
2. East Bay Regional Parks (510) 5372286

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Bicycle Patrol Unit

454.1 PURPOSE AND SCOPE

Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas and their quiet operation can provide a tactical approach to crimes in progress. The purpose of this policy is to provide guidelines for the safe and effective operation of the patrol bicycle.

454.2 POLICY

Patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control, or special events. The use of the patrol bicycle will emphasize their mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Watch Commander.

454.3 SELECTION OF PERSONNEL

Interested sworn personnel, who are off probation, shall submit a request to their appropriate Division Commander. Interested personnel shall be evaluated by the following criteria:

(a) Recognized competence and ability as evidenced by performance.

(b) Special skills or training as it pertains to the assignment.

(c) Good physical condition.

(d) Willingness to perform duties using the bicycle as a mode of transportation.

454.4 TRAINING

Participants in the program must complete an initial Department approved bicycle-training course after acceptance into the program. The initial training shall minimally include the following:

- Bicycle patrol strategies.
- Bicycle safety and accident prevention.
- Operational tactics using bicycles.

454.5 UNIFORMS AND EQUIPMENT

Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle. Safety equipment includes department-approved helmet, riding gloves, protective eyewear and approved footwear.

The bicycle patrol unit uniform consists of the standard short-sleeve uniform shirt or other department-approved shirt with department badge and patches, and department-approved bicycle patrol pants or shorts.

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Optional equipment includes a radio head set and microphone, and jackets in colder weather. Turtleneck shirts or sweaters are permitted when worn under the uniform shirt.

Bicycle patrol officers shall carry the same equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Officers will be responsible for obtaining the necessary forms, citation books and other department equipment needed while on bicycle patrol.

454.6 CARE AND USE OF PATROL BICYCLES

Officers will be assigned a specially marked and equipped patrol bicycle, attached gear bag, two batteries and a charger.

Bicycles utilized for uniformed bicycle patrol shall be primarily black or white with a "POLICE" decal affixed to each side of the crossbar or the bike's saddlebag. Every such bicycle shall be equipped with front and rear reflectors, front lights and a siren/horn satisfying the requirements of Vehicle Code §2800.1(b).

Bicycles utilized for uniformed bicycle patrol shall be equipped with a rear rack and/or saddle bag(s) sufficient to carry all necessary equipment to handle routine patrol calls including report writing, vehicle storage and citations.

Each bicycle may be equipped with a steady or flashing blue warning light that is visible from the front, sides, or rear of the bicycle. (Vehicle Code § 21201.3)

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to insure proper working order of the equipment. Officers are responsible for the routine care and maintenance of their assigned equipment (e.g., tire pressure, chain lubrication, overall cleaning).

If a needed repair is beyond the ability of the bicycle officer, a repair work order will be completed and forwarded to the program supervisor for repair by an approved technician.

At the end of a bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty.

Officers shall not modify the patrol bicycle except with the expressed approval of the bicycle supervisor, or in the event of an emergency.

Vehicle bicycle racks are available should the officer need to transport the patrol bicycle. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a patrol car push-bumper is discouraged.

Bicycles shall be properly secured when not in the officer's immediate presence.

454.7 OFFICER RESPONSIBILITY

Officers must operate the bicycle in compliance with the vehicle code under normal operation. Officers may operate the bicycle without lighting equipment during hours of darkness when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle without lighting equipment.

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Bicycle Patrol Unit

Officers are exempt from the rules of the road under the following conditions (Vehicle Code § 21200(b)(1)):

(a) In response to an emergency call.

(b) While engaged in rescue operations.

(c) In the immediate pursuit of an actual or suspected violator of the law.

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Foot Pursuits

458.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

458.1.1 POLICY

It is the policy of this department when deciding to initiate or continue a foot pursuit that officers must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department personnel, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department personnel.

458.2 DECISION TO PURSUE

The safety of department members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department members.

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual’s involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

(a) Containment of the area.

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(b) Saturation of the area with law enforcement personnel, including assistance from other agencies.

(c) A canine search.

(d) Thermal imaging or other sensing technology.

(e) Air support.

(f) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

458.3 GENERAL GUIDELINES

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

(a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory.

(b) The officer is acting alone.

(c) Two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.

(d) The officer is unsure of his/her location and direction of travel.

(e) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.

(f) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.

(g) The officer loses radio contact with the dispatcher or with assisting or backup officers.

(h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.

(i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.

(j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.

(k) The officer loses possession of his/her firearm or other essential equipment.

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(l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.

(m) The suspect's location is no longer definitely known.

(n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department members or the public if the suspect is not immediately apprehended.

(o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

458.4 RESPONSIBILITIES IN FOOT PURSUITS

458.4.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should, at a minimum, broadcast the following information as soon as it becomes practicable and available:

(a) Location and direction of travel.

(b) Call sign identifier.

(c) Reason for the foot pursuit, such as the crime classification.

(d) Number of suspects and description, to include name if known.

(e) Whether the suspect is known or believed to be armed with a dangerous weapon.

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the dispatcher of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for officers, suspects or members of the public.

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458.4.2 ASSISTING OFFICER RESPONSIBILITIES
Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officers maximum access to the radio frequency.

458.4.3 SUPERVISOR RESPONSIBILITIES
Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-foot pursuit activity.

458.4.4 DISPATCH RESPONSIBILITIES
Upon notification or becoming aware that a foot pursuit is in progress, the dispatcher is responsible for:

(a) Clearing the radio channel of non-emergency traffic.

(b) Coordinating pursuit communications of the involved officers.

(c) Broadcasting pursuit updates as well as other pertinent information as necessary.

(d) Ensuring that a field supervisor is notified of the foot pursuit.

(e) Notifying and coordinating with other involved or affected agencies as practicable.

(f) Notifying the Watch Commander as soon as practicable.

(g) Assigning an incident number and logging all pursuit activities.

458.5 REPORTING REQUIREMENTS
The initiating officer shall complete appropriate crime/arrest reports documenting, at minimum:

(a) Date and time of the foot pursuit.

(b) Initial reason and circumstances surrounding the foot pursuit.

(c) Course and approximate distance of the foot pursuit.

(d) Alleged offenses.

(e) Involved vehicles and officers.

(f) Whether a suspect was apprehended as well as the means and methods used.

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1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.

(g) Arrestee information, if applicable.

(h) Any injuries and/or medical treatment.

(i) Any property or equipment damage.

(j) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.

458.6 POLICY

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

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Medical Aid and Response

462.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

462.2 POLICY

It is the policy of the Atherton Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

462.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact Dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

(a) The location where EMS is needed.

(b) The nature of the incident.

(c) Any known scene hazards.

(d) Information on the person in need of EMS, such as:

1. Signs and symptoms as observed by the member.
2. Changes in apparent condition.
3. Number of patients, sex, and age, if known.
4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
5. Whether the person is showing signs or symptoms of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

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462.4 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 so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

462.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

462.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

462.7 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

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The 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.

462.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

A member may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course (22 CCR 100014; 22 CCR 100017; 22 CCR 100018).

462.8.1 AED USER RESPONSIBILITY

Members who are issued AEDs for use in department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Training Manager who is responsible for ensuring appropriate maintenance.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

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Any member who uses an AED should contact Dispatch as soon as possible and request response by EMS.

462.8.2 AED REPORTING
Any member using an AED will complete an incident report detailing its use.

462.8.3 AED TRAINING AND MAINTENANCE
The Training Manager should ensure appropriate training and refresher training is provided to members authorized to use an AED. A list of authorized members and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request (22 CCR 100021; 22 CCR 100022; 22 CCR 100029).

The Officer assigned to manage the AED program 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).

462.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION
Trained members may administer opioid overdose medication (Civil Code § 1714.22; Business and Professions Code § 4119.9).

462.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES
Members who are qualified to administer, intranasal naloxone (Narcan™) opioid overdose medication, should handle, store and administer the medication consistent with their training.Under storage conditions recommended by the manufacturer, the shelf-life of naloxone, for reliable potency, is approximately 20 months. All Atherton Police Department inventories of naloxone will be replaced on a prescheduled 18 month basis to maintain reliable potency of the medication.

As part of a pre-patrol vehicle inspection, members should inspect the vehicle assigned naloxone hard containment case for an intact security seal.If the seal is broken, request a new kit from the patrol sergeant who will issue a new kit and send the used kit to the Training Manager for replenishment of supplies. Each hard case kit contains two (2) 4mg doses of intranasal naloxone (Narcan™), a CPR respirator face mask, eye shield, and protective gloves. Members assigned to units outside of the patrol structure will have naloxone (Narcan™) kits issued for their specific operational needs, or assigned vehicles and watercraft. The same pre-inspection and replacement process applies before deployment.

Before deploying intranasal naloxone (Narcan™), members will perform a victim assessment, and determine unresponsiveness, absence of breathing and/or lack of pulse, and if available a timeframe for onset of symptoms or duration of time the condition(s) has existed. If after the assessment, the member determines that the person is suffering from an opioid overdose and meets the criteria for administration of intranasal naloxone, the member will do the following:

- Notify dispatch of your observations and that the person is in a potential overdose state
- Request priority response by Emergency Medical Services (EMS)

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- Request an in-field APD patrol AED unit be brought to your location
- Be aware of scene and victim contamination, and practice 'universal precautions' for personal safety when administering opioid overdose protocols
- Determine the combination of opioid overdose administration sequence protocols: CPR, AED, naloxone, or variations therein
- To the best of your ability, communicate with dispatch each first-aid transition sequence performed for documentation purposes
- Be mindful of a potential violent recovery of the victim after the administration of naloxone and take appropriate steps to prepare and reduce victim injury
- Be prepared to provide EMS/Fire with your observations and specific course of action taken before their arrival
- Coordinate with EMS/Fire transportation of the victim to a medical facility

When anopioid medication kit is used (with the exception of the intranasal Naloxone delivery device) the used kit should be turned into the member's supervisor so a new kit can be obtained before going back into service to handle another call.

If an officer finds that a Narcan Kit appears to be used, damaged or has a broken seal, the officer should author a memorandum to the on duty Watch Commander. The Watch Commander should forward the memorandum to the Training Manager for the replacement and proper disposal of the damaged Narcan unit.

462.9.2 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering intranasal naloxone opioid overdose medication will detail its use in a Department Crime/Incident Report, CR-1, in RIMS. If the victim is transported to a medical facility and the scene and its contents are not held for a criminal investigation, the intranasal naloxone delivery device and packaging will be booked into property as evidence. In addition to the crime/incident report, the officer administering Naloxone will fill out the San Mateo County Law Enforcement Naloxone Reporting Form. The Records Division willassure the following is accomplished: 1) email the completed form to the San Mateo County Medical Director, and the San Mateo County Medical Services Agency as directed by the form; 2) scan the form into RIMS and make it part of the incident report; and 3) forward the original county reporting form to the Training Manager for any future reporting requirements.

Any administration of naloxone by a department member or assistance provided where naloxone was administered will require reasonable time-delayed notification by the member's supervisor; up to the Commander.

462.9.3 OPIOID OVERDOSE MEDICATION TRAINING

The Training Manager will ensure the initial training of all sworn members, and coordination of refresher training during each two (2) year legislative required First-Aid update to members authorized to administer opioid overdose medication. The training shall consist of victim assessment (e.g., signs / symptoms of overdose), discussions on universal safety precautions,

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rescue breathing, rescue breathing in conjunction with AED administration, medical attention, and use of intranasal naloxone (Narcan™). Training lesson plans, instructor qualifications, written and skills competency tests will follow the recommendations set forth by the San Mateo County Medical Director and comply with the requirements in 22 CCR 100019 and Civil Code § 1714.22.

462.9.4 DESTRUCTION OF OPIOID OVERDOSE MEDICATION
The Training Manager shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

462.9.5 OPIOID OVERDOSE MEDICATION RECORD MANAGEMENT
Records regarding acquisition and disposition of opioid overdose medications shall be maintained and retained in accordance with the established records retention schedule and at a minimum of three years from the date the record was created (Business and Professions Code § 4119.9).

462.10 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.

462.11 FIRST AID TRAINING

The Training Manager should ensure officers receive initial first aid training within one year of employment and refresher training every two years thereafter (22 CCR 100016; 22 CCR 100022).

462.12 EPINEPHRINE AUTO-INJECTOR TRAINING

The Training Manager 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 sections 1797.197a(c) and 22 CCR 100019.

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Crisis Intervention Incidents

466.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

466.1.1 DEFINITIONS

Definitions related to this policy include:

Person in crisis - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

466.2 POLICY

The Atherton Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

466.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

(a) A known history of mental illness

(b) Threats of or attempted suicide

(c) Loss of memory

(d) Incoherence, disorientation or slow response

(e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas

(f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt

(g) Social withdrawal

(h) Manic or impulsive behavior, extreme agitation, lack of control

(i) Lack of fear

(j) Anxiety, aggression, rigidity, inflexibility or paranoia

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

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466.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police may designate an appropriate staff member to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

466.5 FIRST RESPONDERS

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

(a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.

(b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.

(c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.

(d) Attempt to determine if weapons are present or available.

    1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).

(e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.

(f) Secure the scene and clear the immediate area as necessary.

(g) Employ tactics to preserve the safety of all participants.

(h) Determine the nature of any crime.

(i) Request a supervisor, as warranted.

(j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.

(k) If circumstances reasonably permit, consider and employ alternatives to force.

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Crisis Intervention Incidents

466.6 DE-ESCALATION

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

466.7 INCIDENT ORIENTATION

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

(a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.

(b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.

(c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

466.8 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

(a) Attempt to secure appropriate and sufficient resources.

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(b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).

(c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.

(d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.

(e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Commander.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

466.9 INCIDENT REPORTING

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

466.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

466.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

(a) Members should treat all individuals equally and with dignity and respect.

(b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.

(c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person’s behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

466.11 EVALUATION

The Commander should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining

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to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

466.12 TRAINING

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

This department will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

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First Amendment Assemblies

467.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

467.2 POLICY

The Atherton Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

467.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

(a) Engage in assembly or demonstration-related discussion with participants.

(b) Harass, confront or intimidate participants.

(c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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467.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious, or social views of associations, or the activities of any individual, group, association, organization, corporation, business, or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

467.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

467.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

467.5.1 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).

467.5.2 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 Town 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.

467.5.3 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).

467.6 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.

467.7 USE OF FORCE

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and TASER® devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

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Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

467.8 ARRESTS

The Atherton 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).

467.9 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).

467.9.1 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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467.10 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.

467.11 POST EVENT

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

(a) Operational plan

(b) Any incident logs

(c) Any assignment logs

(d) Vehicle, fuel, equipment and supply records

(e) Incident, arrest, use of force, injury and property damage reports

(f) Photographs, audio/video recordings, Dispatch records/tapes

(g) Media accounts (print and broadcast media)

467.11.1 AFTER-ACTION REPORTING

The Incident Commander should work with Town 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.

467.12 TRAINING

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The Department should, when practicable, train with its external and mutual aid partners.

Officers should also receive periodic training on the standards for the use of kinetic energy projectiles and chemical agents for crowd control purposes as identified in Penal Code § 13652.

467.13 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.

467.13.1 USE SUMMARY

The Patrol Commander or the authorized designee should ensure that a summary of each deployment of kinetic energy projectiles or chemical agents for crowd control purposes is prepared and published on the department website within 60 days of each incident. The time frame may be extended for another 30 days where just cause is demonstrated, but no longer than 90 days from the time of the incident. The summary shall be limited to the information known to the Department at the time of the report and include the information required in Penal Code § 13652.1.

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Civil Disputes

468.1 PURPOSE AND SCOPE

This policy provides members of the Atherton Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by California law.

468.2 POLICY

The Atherton Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

468.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

(a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.

(b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.

(c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.

(d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.

(e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

468.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent

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court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

(a) The person's knowledge of the court order or whether proof of service exists.

(b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

468.4.1 STANDBY REQUESTS

Officer responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

468.5 VEHICLES AND PERSONAL PROPERTY

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

468.6 REAL PROPERTY

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

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Automated License Plate Readers (ALPRs)

469.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

469.2 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Atherton Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Commander. The Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

469.2.1 ALPR ADMINISTRATOR

The 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.

469.3 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

(a) 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 shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(e) No ALPR operator may access department, 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.

469.4 ALPR HITS

(a) When an alarm is received alerting operators of a positive Hit from the Hotlist database, a digital image of the license plate will be displayed on the mobile data computer screen.

(b) Absent exigent circumstances, or other information to establish probable cause for a detention, ALPR operators shall compare the digital image of the license plate to the Hotlist information to verify the Hit for both the state in which the license plate was issued, and the characters on the license plate. ALPR systems will alert based on the alpha numeric characters displayed for license plates issued, and false positives are possible based on license plates with the same numbers from other states. ALPR systems may also misread letters and numbers of similar shapes. This is the primary reason that, absent exigent circumstances, all positive Hits must be confirmed prior to taking law enforcement action.

(c) Absent exigent circumstances, or other information to establish probable cause for a detention, ALPR operators shall confirm the ALPR information by radio or mobile data computer to immediately confirm the Hit prior to taking enforcement or any other type of action.

469.5 DATA COLLECTION AND RETENTION

The 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 procedures.

All ALPR data downloaded to the server shall 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,

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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.

469.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Atherton Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

(a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).

(b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

(c) ALPR system audits shall be conducted on an annual basis by an independent outside auditor.

(d) An incident or case number shall be entered for all inquiries in the ALPR system

469.7 POLICY

The policy of the Atherton 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.

469.8 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 Commander or the authorized designee and approved before the request is fulfilled.

(c) The approved request is retained on file.

Requests for ALPR data will be processed as provided in the Records Maintenance and Release Policy pursuant to Civil Code § 1798.90.55.

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469.9 TRAINING

The Training Manager 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).

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Aircraft Accidents

470.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Management Plan and Hazardous Material Response policies.

470.1.1 DEFINITIONS

Definitions related to this policy include:

Aircraft - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

470.2 POLICY

It is the policy of the Atherton Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

470.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

(a) Protect persons and property.

(b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.

(c) Preserve ground scars and marks made by the aircraft.

(d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.

(e) Maintain a record of persons who enter the accident site.

(f) Consider implementation of an Incident Command System (ICS).

470.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

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Aircraft Accidents

470.5 NOTIFICATIONS

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

(a) Fire department

(b) Appropriate airport tower

(c) Emergency medical services (EMS)

470.6 CONTROLLING ACCESS AND SCENE AUTHORITY

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

(a) FAA.

(b) Fire department, EMS or other assisting law enforcement agencies.

(c) Coroner.

(d) Air Carrier/Operators investigative teams with NTSB approval.

(e) Appropriate branch of the military, when applicable.

(f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

470.7 DANGEROUS MATERIALS

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

(a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.

(b) Pressure vessels, compressed gas bottles, accumulators and tires.

(c) Fluids, batteries, flares and igniters.

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(d) Evacuation chutes, ballistic parachute systems and composite materials.

470.8 DOCUMENTATION

All aircraft accidents occurring within the Town of Atherton shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of APD members deployed to assist; other Town resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

470.8.1 WRECKAGE

When reasonably safe, members should:

(a) Obtain the aircraft registration number (N number) and note the type of aircraft.

(b) Attempt to ascertain the number of casualties.

(c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.

1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).

(d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.

(e) Acquire copies of any recordings from security cameras that may have captured the incident.

470.8.2 WITNESSES

Members tasked with contacting witnesses should obtain:

(a) The location of the witness at the time of his/her observation relative to the accident site.

(b) A detailed description of what was observed or heard.

(c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.

(d) The names of all persons reporting the accident, even if not yet interviewed.

(e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

470.9 MEDIA RELATIONS

The Public Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

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Aircraft Accidents

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

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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 collision 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 collision situations, but also in terms of traffic-related needs.

500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Atherton Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic collision 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 collision causing violations during high collision hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer’s work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

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500.3.2 CITATIONS

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

(a) Explanation of the violation or charge

(b) Court appearance procedure including the optional or mandatory appearance by the motorist

(c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

(a) Vehicular manslaughter

(b) Felony and misdemeanor driving under the influence of alcohol/drugs

(c) Felony or misdemeanor hit-and-run

(d) Refusal to sign notice to appear

(e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

500.4 SUSPENDED OR REVOKED DRIVERS LICENSES

If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

500.5 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.

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Traffic Function and Responsibility

500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

Each officer shall be issued a high-visibility vest. 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 for replacement of damaged or unserviceable vests. The Training Manager should be promptly notified whenever the supply of vests needs replenishing.

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Traffic Collision Reporting

502.1 PURPOSE AND SCOPE

The Atherton Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM), and, as a public service, makes traffic collision reports available to the community with some exceptions.

502.2 RESPONSIBILITY

The assigned Traffic Officer will be responsible for distribution of the Collision Investigation Manual. The assigned Traffic Officer will receive all changes in the state manual and ensure conformity with this policy.

502.3 TRAFFIC COLLISION REPORTING

All traffic collision reports taken by members of this Department shall be forwarded to the Traffic Bureau for approval. Dispatchers will complete the data entry into the Records Management System once the report has been approved.

The assigned Traffic Officer will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Patrol Division Commander, or other persons as required.

502.4 REPORTING SITUATIONS

502.4.1 TRAFFIC COLLISIONS INVOLVING TOWN VEHICLES

Traffic collision investigation reports shall be taken when a Town-owned vehicle is involved in a traffic collision upon a roadway or highway wherein any damage or injury results. A general information report may be taken in lieu of a traffic collision report at the direction of the Watch Commander when the collision occurs on private property or does not involve another vehicle. Whenever there is damage to a Town vehicle, a Vehicle Damage Report shall be completed and forwarded to the appropriate Division Commander.

Photographs of the collision scene and vehicle damage shall be taken at the discretion of the traffic investigator or any supervisor.

502.4.2 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 Atherton Police Department resulting in a serious injury or fatality, the assigned Traffic Officer 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.

502.4.3 TRAFFIC COLLISIONS WITH OTHER TOWN EMPLOYEES OR OFFICIALS

The assigned Traffic Officer or on-duty Watch Commander may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any Town official or employee where a serious injury or fatality has occurred.

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502.4.4 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS
Traffic collision reports shall be taken when they occur on a roadway, highway, public or private property within the jurisdiction of this Department under any of the following circumstances:

(a) When there is a death to any person involved in the collision.

(b) When there is an injury to any person inviolved in the collision and the injured person is transported to the hospital via an ambulance.

(c) When the collision is a misdemeanor hit and run with identifiable suspect vehicle information.

(d) When the collision is a felony hit and run.

(e) When the collision involves a driver who is either unlicensed or driving with a suspended driver's license.

(f) When the collision involves a driver who is/was driving under the influence (alcohol/ drugs).

(g) When any person involved in the collision requests a report.

502.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION
In the event of a serious injury or death related traffic collision, the Watch Commander shall notify the assigned Traffic Officer to relate the circumstances of the traffic collision and seek assistance from the Traffic Bureau. In the absence of the assigned Traffic Officer, the Watch Commander or any supervisor may assign an accident investigator or motor officer to investigate the traffic collision.

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Motorcycle Unit

506.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use, operation, qualifications, care, and maintenance of Town of Atherton motorcycles operated by members of the Atherton Police Department.

The Motorcycle Unit augments a patrol units' ability to address traffic safety and related nuisances and special enforcement.

506.2 POLICY

This policy establishes guidelines for the use, operation, qualifications, care, and maintenance of Town of Atherton motorcycles operated by members of the Atherton Police Department Motorcycle Unit.

506.3 OPERATIONAL GUIDELINES

Only officers authorized by the Chief of Police may operate an Atherton Police Department motorcycle. Those assigned to the Motor Unit must:

- Possess a valid M1 motorcycle endorsement by the California DMV.
- Successfully complete Basic Motor School.

506.3.1 HOURS OF OPERATION

Town of Atherton motorcycles are primarily for daytime use, though operation during hours of darkness is permitted.

506.3.2 WEATHER CONDITIONS

The motorcycles shall be used year-round, as weather conditions and staffing permit. Officers should not operate police motorcycles in severe storm conditions, snow/ice, or other environmental conditions that are unsafe.

506.3.3 PASSENGERS

Officers are prohibited from taking passengers on Town of Atherton motorcycles.

506.3.4 ARRESTEES

In the event of an arrest by a Motor Officer, a Patrol Officer shall transport the arrestee. Once the arrestee has been transported and secured, the Patrol Officer shall return to his or her assigned area of responsibility.

506.4 REQUEST FOR A MOTORCYCLE UNIT

Requests for a Motorcycle Unit for events, including, but not limited to, parades, escorts, event security, and traffic saturation details, should be forwarded to the Motor Sergeant.

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506.5 SELECTION AND TRAINING

The primary purpose of testing and training is to reduce injuries related to motorcycle collisions and to address other factors surrounding the safe operation of Town of Atherton motorcycles. The Atherton Police Department is committed to placing only the most highly qualified officers on Town of Atherton motorcycles. Vacant Motor Officer positions shall be filled in accordance with Lexipol Policy 103 – Promotion and Transfer.

506.5.1 TRAINING

Prior to any training, an Officer must possess a valid Class M1 Motorcycle Permit from the CA DMV. Basic Motorcycle Training: Once selected as a Motor Officer, an individual must complete the following:

- An in-house “pre-training” program (minimum of 40 hours).
- A POST-Approved Basic Motorcycle Course selected by the Training Manager and Motor Sergeant.
- Field Training (FTO): Upon completion of a POST-Approved Basic Motorcycle Course, each newly appointed Motor Officer must complete Field Training provided by a designated Motorcycle Instructor.
    - The Field Training Program shall be a minimum of 80 hours.
    - This phase of training shall include enforcement operations such as code three driving, incline/decline, speed enforcement, and nighttime operations.
- Upon successfully completing Field Training, the rider will be released to solo duty.

506.5.2 ON-GOING TRAINING

Officers assigned full-time to the Motorcycle Unit should complete in-service training once every 4-month shift rotation.

506.6 REMOVAL FROM MOTORCYCLE UNIT

Officers may be removed from the Motorcycle Unit if:

- They fail to successfully complete motorcycle in-service training, and/or
- They fail to maintain a satisfactory job performance evaluation rating over two successive rating periods.

An officer removed from the Motorcycle Unit may be considered to re-join the Motorcycle Unit under the following circumstances:

- Submit a request in writing to the Commander.
- If the removal was due to a failure to complete in-service training, the Motor Officer must successfully complete Motorcycle Refresher Training with a designated Motorcycle Instructor.
- Maintain a satisfactory performance evaluation.
- Maintain good physical fitness.

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506.7 EQUIPMENT

Motor Unit team members must wear all appropriate safety equipment while operating a Town of Atherton motorcycle. This includes:

Approved helmet.

Gloves.

Eye protection.

Approved riding boots.

Riding pants.

506.8 MOTORCYCLE MAINTENANCE

Motorcycle Officers shall follow Atherton Police Department policies regarding vehicle care and maintenance. Motorcycle Officers are required to complete a pre-operational inspection of their assigned motorcycle and equipment at the beginning of each shift and before operation of their motorcycles.

Motorcycle Officers are responsible for the following duties regarding upkeep and maintenance of the motorcycle:

Washing, waxing, and general cleanliness of the motorcycle.

Daily check of oil and fluid levels.

Daily check of all lights, siren, and emergency equipment.

Daily visual inspection for signs of wear and damage.

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Vehicle Towing and Release

510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Atherton Police Department. Nothing in this policy shall require the Department to tow a vehicle.

510.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

510.2.1 VEHICLE STORAGE REPORT

Department 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 Center as soon as practicable after the vehicle is stored.

510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Dispatch.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the Town of Atherton. The officer will then store the vehicle using a CHP Form 180.

510.2.3 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:

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- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Department will not be responsible for theft or damages.

510.2.4 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.

510.2.5 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.

510.2.6 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

When there is no preferred company requested, the dispatcher shall call the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request.

510.2.7 RECORDS CENTER RESPONSIBILITY

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

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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 Center 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, in writing, or by telephone within 10 days of the date appearing on the notice.

510.3 TOWING SERVICES

The Town of Atherton periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

(a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.

(b) When a vehicle is being held as evidence in connection with an investigation.

(c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal of vehicles obstructing traffic in violation of state or local regulations.

510.4 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.

510.5 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

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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.

510.6 RELEASE OF VEHICLE

The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

(a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).

(b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).

(c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or 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.

(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.

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Vehicle Impound Hearings

512.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

512.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Atherton Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

512.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The Traffic Sergeant will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §14602.6(b); Vehicle Code § 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

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where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

(a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.

1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.

(b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).

(c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Commander. The hearing officer will recommend to the appropriate Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.

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Impaired Driving

514.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

514.2 POLICY

The Atherton Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

514.3 INVESTIGATIONS

Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

The Traffic 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.

514.4 CHEMICAL TESTS

A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

(a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.

(b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).

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(c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).

(d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

514.4.1 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)).

514.4.2 BREATH SAMPLES

The Traffic Sergeant should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Sergeant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the officer’s belief shall be included in the officer’s report (Vehicle Code § 23612(a)(2)(C)).

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Impaired Driving

514.4.3 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.

514.4.4 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 the arrestee's 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.

514.4.5 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).

514.4.6 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).

514.4.7 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

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in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of the person's blood, breath, or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

514.5 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.

514.5.1 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.

514.5.2 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that the person will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

(a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.

(b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.

(c) Advise the person of the person's duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.

1. This dialogue should be recorded on audio and/or video if practicable.

(d) Ensure that the blood sample is taken in a medically approved manner.

(e) Ensure the forced blood draw is recorded on audio and/or video when practicable.

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(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.

514.5.3 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)).

514.6 RECORDS CENTER RESPONSIBILITIES

The on-duty Dispatcher will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

514.7 ADMINISTRATIVE HEARINGS

The on-duty Dispatcher will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

514.8 TRAINING

The Training Manager should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Training Manager should confer with the prosecuting attorney's office and update training topics as needed.

514.9 ARREST AND INVESTIGATION

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Impaired Driving

514.9.1 WARRANTLESS ARREST

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

(a) The person is involved in a traffic crash.

(b) The person is observed in or about a vehicle that is obstructing the roadway.

(c) The person will not be apprehended unless immediately arrested.

(d) The person may cause injury to themselves or damage property unless immediately arrested.

(e) The person may destroy or conceal evidence of a crime unless immediately arrested.

514.9.2 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

(a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).

(b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.

(c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

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Traffic Citations

516.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, as well as the procedures for dismissal, correction, and voiding of traffic citations.

516.1.1 POLICY

Citations will only be dismissed when circumstances reveal the citation was issued in error or cannot be completed as required by law, and then only when properly documented and approved. Citations will not be voided for any reason.

516.2 RESPONSIBILITIES

The assigned Traffic Officer shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

516.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this Department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). Any request from a recipient to dismiss a citation shall be referred to the assigned Traffic Officer. Upon a review of the circumstances involving the issuance of the traffic citation, the assigned Traffic Officer may request the Chief of Police to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine before or during a court proceeding that a traffic citation should be dismissed in the interest of justice, or where prosecution is deemed inappropriate, the officer may request the court to dismiss the citation.

516.4 VOIDING TRAFFIC CITATIONS

When an officer writes or starts writing a citation and wants it adjudicated without going through the court process, the citation dismissal process will be followed. Citations will not be voided for any reason.

Whenever an officer or other member of this Department, who is authorized to issue citations, determines that a citation has been issued in error, or it has been determined by a supervisor after a review of the circumstances that the citation is not in order, the following process will be followed:

(a) **If the officer has not delivered the violator's copy to the person or vehicle being issued a citation, the officer shall forward a memo to the Chief's Office.**

1. The memo shall include the reason the officer is requesting a dismissal and the citation, and the violator's copy shall be attached.
2. The Chief will review the dismissal memo and, if in concurrence with the dismissal request, will authorize the action.

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(b) **If the officer has delivered the violator's copy to the person or vehicle being issued a citation, the officer shall forward a memo to the Chief's Office.**

1. The memo shall include the reason the officer is requesting a dismissal. The court copy and Department copy of the citation shall be attached.
2. The Chief shall review the request for the dismissal and, if in concurrence with the dismissal request, will sign the declaration and forward it to the appropriate administrative tribunal or prosecuting attorney.

516.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the officer shall complete a Citation Amendment Form and attach it to the citation. The dispatcher shall mail the recipient his/her copy of the Citation Amendment Form, and the Court Officer shall ensure the citation and Citation Amendment Form are delivered to the proper court.

516.6 DISPOSITION OF TRAFFIC CITATIONS

The citation copies shall be filed with the Records Center.

Upon separation from employment with this Department, all employees issued traffic citation books shall return any unused citations to the assigned Traffic Officer.

516.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE

Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

516.7.1 APPEAL STAGES

Appeals may be pursued sequentially at three different levels:

(a) Administrative reviews are conducted by the assigned Traffic Officer who will review written/documentary data. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.

(b) If the appellant wishes to pursue the matter beyond administrative the review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.

(c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to The Superior Court of California.

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Traffic Citations

516.7.2 TIME REQUIREMENTS

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

(a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking (Violation Vehicle Code § 40215(a)).

(b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).

(c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).

(d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209 and Vehicle Code § 40210).

516.7.3 COSTS

(a) There is no cost for an administrative review.

(b) Appellants must pay the full amount due for the citation, or provide satisfactory proof of their inability to pay, before receiving an administrative hearing.

(c) An appeal through Superior Court requires prior payment of filing costs including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

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Disabled Vehicles

520.1 PURPOSE AND SCOPE

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

520.1.1 POLICY

It is the policy of the Atherton Police Department that members of this Department stop and offer assistance to disabled or stranded motorists. This is an important and required act of public service.

520.2 OFFICER RESPONSIBILITY

When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

520.2.1 SURFACE STREET ASSISTANCE

(a) All uniformed personnel shall stop and offer assistance to motorists stranded on surface streets when it appears help is needed and the officer is not responding to a priority or in-progress call.

(b) Consideration should be given to the time of day, the location, the available repair facilities and the apparent problem in determining the citizen's need for assistance.

520.2.2 FREEWAY ASSISTANCE

(a) Uniformed personnel should stop and offer assistance to motorists stranded along freeways when the officer deems the assistance is appropriate and possible.

(b) If the officer is unable to stop and render assistance, Dispatch shall be advised of the motorist's location and description so that the California Highway Patrol may be notified.

520.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of departmental resources, and the vulnerability of the disabled motorist.

520.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

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Disabled Vehicles

520.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

520.3.3 RELOCATION OF DISABLED MOTORIST

The relocation of a disabled motorist should only occur with the person's consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

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72-Hour Parking Violations

524.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the California Vehicle Code section regulating 72-hour parking violations and abandoned vehicles.

524.2 MARKING VEHICLES

(a) Vehicles suspected of being in violation of the California Vehicle Code section regulating 72-hour parking violations shall be marked and noted on the Atherton Police Department Parking Violation Card. No case number is required at this time.

(b) The locations of the valve stems on all four tires shall be marked on the Atherton Police Department Parking Violation Card using the proper chronographical time positions.

(c) A separate warning notice shall be placed on the subject vehicle which states the date and time the vehicle was marked for the 72-hour parking violation.

(d) All Parking Violation Cards shall be submitted to the Communications Division for computer data entry.

524.2.1 MARKED VEHICLE FILE

(a) The Communications Division shall be responsible for maintaining a file for all Parking Violation Cards.

(b) Officers assigned to the Patrol and Traffic Divisions shall be responsible for the follow up investigation of all 72-hour parking violations noted on the Parking Violation Cards.

524.2.2 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report (CHP form 180) shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Communications Division immediately following the storage of the vehicle. It shall be the responsibility of the Communications Division 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 Communications Division to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

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Chapter 6 - Investigation Operations

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Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.2 POLICY

It is the policy of the Atherton Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

600.3 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.

600.3.1 AUDIO/VIDEO RECORDINGS

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

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Detective Bureau supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

600.3.2 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.

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(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 shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

600.4 INITIAL INVESTIGATION

600.4.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

(a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:

1. An initial statement from any witnesses or complainants.
2. A cursory examination for evidence.

(b) If information indicates a crime has occurred, the officer shall:

1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.

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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.

600.4.2 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

600.5 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.

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600.6 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

600.7 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights, and civil liberties. Information gathered via the internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using the member's own equipment, the member should note the dates, times, and locations of the information and report the discovery to the member's supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

600.7.1 ACCESS RESTRICTIONS

Information that can be accessed from any department computer, without the need of an account, password, email address, alias, or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any internet source should be evaluated for its validity, authenticity, accuracy, and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

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600.7.2 INTERCEPTING ELECTRONIC COMMUNICATION
Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

600.8 MODIFICATION OF CHARGES FILED

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Commander or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

600.9 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

The Detective Sergeant is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

(a) Security procedures are developed to protect information gathered through the use of the technology.

(b) A usage and privacy policy is developed that includes:

1. The purposes for which using cellular communications interception technology and collecting information is authorized.
2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
3. Training requirements necessary for those authorized employees.
4. A description of how the Department will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
5. Process and time period system audits.
6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.
7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with department security procedures, the department’s usage and privacy procedures and all applicable laws.

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600.10 USE OF CERTAIN DNA SAMPLES

Known samples of DNA collected from a victim of a crime or alleged crime, and known reference samples of DNA from any individual that were voluntarily provided for the purpose of exclusion are to be used only for the purpose directly related to the incident being investigated and in compliance with the procedures identified in Penal Code § 679.12.

600.11 ANTI-REPRODUCTIVE RIGHTS CRIMES

A member should take a report any time a person living within the jurisdiction of the Atherton Police Department reports that the person has been a victim of an anti-reproductive rights crime as defined by Penal Code § 13776 and Penal Code § 423.3. This includes:

(a) Taking a report, even if the location of the crime is outside the jurisdiction of this department or has not been determined (e.g., online harassment).

(b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Members should encourage the person to review the material and should assist with any questions.

A report should also be taken if a person living outside department jurisdiction reports an anti-reproductive rights crime that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in the town to facilitate the crime).

A member investigating an anti-reproductive rights crime should ensure that the case is referred to the appropriate agency if it is determined that this department should not be the investigating agency. The victim should be advised that the case is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for department use and are specific to this type of investigation.

The Detective Bureau supervisor should provide the Records Supervisor with enough information regarding the number of calls for assistance and number of arrests to meet the reporting requirements to the California Department of Justice as required by Penal Code § 13777. See the Records Center Policy for additional guidance.

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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 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 Atherton Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

602.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

(a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.

(b) Conduct follow-up interviews and investigation.

(c) Present appropriate cases of alleged sexual assault to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.

(e) Provide referrals to therapy services, victim advocates and support for the victim.

(f) Participate in or coordinate with SART.

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602.4 REPORTING

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

602.5 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Detective Bureau supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

602.6 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.

602.7 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to Dispatch, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic

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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.

602.7.1 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).

602.7.2 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

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602.7.3 VICTIM PARTICIPATION

No victim of sexual assault shall be required to participate, or agree to participate with, the local law enforcement agency or the crminal justice system, either prior to the examination, or at any other time.

602.8 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.

602.8.1 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 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).

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Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

602.8.2 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 is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.

(b) Sexual assault victims shall further have the following rights (Penal Code § 680):

1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.
2. To be informed if there is a confirmed match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank or the federal Department of Justice or Federal Bureau of Investigation CODIS database of case evidence.
4. To access the DOJ SAFE-T database portal consistent with Penal Code § 680.3(e) for information involving their own forensic kit and the status of the kit.

(c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).

1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

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602.8.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT
The Property and Evidence Section 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).

602.8.4 COLLECTION OF DNA REFERENCE SAMPLES
Reference samples of DNA collected directly from a victim of sexual assault, and reference samples of DNA collected from any individual that were voluntarily provided for the purpose of exclusion, shall be protected as provided in Penal Code § 679.12 (Penal Code § 680).

602.9 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Detective Bureau supervisor.

Classification of a sexual assault case as unfounded requires the Detective Bureau supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

602.10 CASE REVIEW

The Detective Bureau supervisor should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

602.11 SURVIVOR RIGHTS CARD

Your Rights Card.pdf

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Informants

608.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

608.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the Atherton Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Atherton Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

608.2 POLICY

The Atherton Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

608.3 USE OF INFORMANTS

608.3.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

608.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol, marijuana or tobacco products, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

(a) The juvenile’s parents or legal guardians

(b) The juvenile’s attorney, if any

(c) The court in which the juvenile’s case is being handled, if applicable (Penal Code § 701.5)

(d) The Chief of Police or the authorized designee

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608.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

608.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

(a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Commander, Investigation Bureau supervisor or their authorized designees.

1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.

(b) Criminal activity by informants shall not be condoned.

(c) Informants shall be told they are not acting as police officers, employees or agents of the Atherton Police Department, and that they shall not represent themselves as such.

(d) The relationship between department members and informants shall always be ethical and professional.

1. Members shall not become intimately involved with an informant.

2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Investigation Bureau supervisor.

3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.

(e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Investigation Bureau supervisor.

1. Officers may meet informants alone in an occupied public place, such as a restaurant.

(f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.

(g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

(h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

608.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a

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determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file “unsuitable” when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

(a) The informant has provided untruthful or unreliable information in the past.

(b) The informant behaves in a way that may endanger the safety of an officer.

(c) The informant reveals to suspects the identity of an officer or the existence of an investigation.

(d) The informant appears to be using his/her affiliation with this department to further criminal objectives.

(e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.

(f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.

(g) The informant commits criminal acts subsequent to entering into an informant agreement.

608.5 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Investigation Bureau. The Investigation Bureau supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Commander, Investigation Bureau supervisor or their authorized designees.

The Investigation Commander should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Investigation Bureau supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

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608.5.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

(a) Name and aliases

(b) Date of birth

(c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features

(d) Photograph

(e) Current home address and telephone numbers

(f) Current employers, positions, addresses and telephone numbers

(g) Vehicles owned and registration information

(h) Places frequented

(i) Briefs of information provided by the informant and his/her subsequent reliability

1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.

(j) Name of the officer initiating use of the informant

(k) Signed informant agreement

(l) Update on active or inactive status of informant

608.6 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant’s previous criminal activity
- The level of risk taken by the informant

The Investigation Bureau supervisor will discuss the above factors with the Patrol Commander and recommend the type and level of payment subject to approval by the Chief of Police.

608.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

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(a) Payments of $500 and under may be paid in cash from a Investigation Bureau buy/expense fund.

1. The Investigation Bureau supervisor shall sign the voucher for cash payouts from the buy/expense fund.

(b) Payments exceeding $500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.

1. The check shall list the case numbers related to and supporting the payment.
2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
4. Authorization signatures from the Chief of Police and the City Manager are required for disbursement of the funds.

(c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.

1. The cash transfer form shall include the following:
   (a) Date
   (b) Payment amount
   (c) Atherton Police Department case number
   (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
2. The cash transfer form shall be signed by the informant.
3. The cash transfer form will be kept in the informant's file.

608.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed $600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as “other income” and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant’s file.

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Informants

608.6.3 AUDIT OF PAYMENTS

The Investigation Bureau supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

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San Mateo County Line Up Protocol

610.1 PHOTO LINE UP FORM

See attachment: Atherton PD Photo line up form.pdf

610.2 SAN MATEO COUNTY LINE UP PROTOCOL

610.2.1 PAGES 1 TO 3

See attachment: Line-up Protocol Pages 1-3.pdf

610.2.2 PAGES 4 TO 5

See attachment: Line-up Protocol Pages 4-5.pdf

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Brady Material Disclosure

612.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

612.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** -Information known or possessed by the Atherton Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

612.2 POLICY

The Atherton 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 Atherton 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.

612.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or attorney-client information, attorney work product), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

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

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.

612.4 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:

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(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.

612.5 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 investigated and processed in accordance with the Personnel Complaints Policy.

612.6 TRAINING

Department members should receive periodic training on the requirements of this policy.

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Asset Forfeiture

613.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

613.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Atherton Police Department seizes property for forfeiture or when the Atherton Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

Forfeiture - The process by which legal ownership of an asset is transferred to a government or other authority.

Forfeiture reviewer - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

Property subject to forfeiture - The following may be subject to forfeiture:

(a) Property related to a narcotics offense, which includes (Heath and Safety Code § 11470; Health and Safety Code § 11470.1):

1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.

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(b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):

1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.

2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

Seizure - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

613.2 POLICY

The Atherton 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 Atherton 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.

613.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

613.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

(a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.

(b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):

1. The property subject to forfeiture is legally seized incident to an arrest.

2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing officer can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

Officers aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

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Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

613.3.2 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).

613.4 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 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.

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Asset Forfeiture

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.

613.5 MAINTAINING SEIZED PROPERTY

The Property and Evidence Section 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.

613.6 FORFEITURE REVIEWER

The Chief of Police will appoint an officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

(a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.

(b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.

(c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.

(d) Ensuring that property seized under state law is not referred or otherwise transferred to a federal agency seeking the property for federal forfeiture as prohibited by Health and Safety Code § 11471.2.

(e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.

(f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant

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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 Directives. The training should cover this policy and address any relevant statutory changes and court decisions.

(h) Reviewing each asset forfeiture case to ensure that:

1. Written documentation of the seizure and the items seized is in the case file.
2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Health and Safety Code § 11488.4).
4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
6. Any cash received is deposited with the fiscal agent.
7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
8. Current minimum forfeiture thresholds are communicated appropriately to officers.
9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

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(i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.

(j) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.

(k) Keeping a manual that details the statutory grounds for forfeitures and department procedures related to asset forfeiture, including procedures for prompt notice to 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 Town financial directives (Health and Safety Code § 11495).

613.7 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).

613.7.1 RECEIVING EQUITABLE SHARES

When participating in a joint investigation with a federal agency, the Atherton 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.

613.8 CLAIM INVESTIGATIONS

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and that ownership did not arise subsequent to the date and time of arrest or notification

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of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

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Warrant Service

614.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

614.2 POLICY

It is the policy of the Atherton Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

614.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

614.4 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

614.5 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

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614.6 WARRANT PREPARATION

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

614.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

(a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.

(b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.

(c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.

(d) Reasonable efforts are made during the search to maintain or restore the condition of the location.

(e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.

(f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).

(g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.

(h) A copy of the search warrant is left at the location.

(i) The condition of the property is documented with video recording or photographs after the search.

614.8 DETENTIONS DURING WARRANT SERVICE

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of

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any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

614.9 ACTIONS AFTER WARRANT SERVICE

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

614.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Atherton Police Department are utilized appropriately. Any concerns regarding the requested use of Atherton Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Watch Commander should assume this role.

If officers intend to serve a warrant outside Atherton Police Department jurisdiction, the operations director should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Atherton Police Department when assisting outside agencies or serving a warrant outside Atherton Police Department jurisdiction.

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614.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

614.12 TRAINING

The Training Manager should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

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Operations Planning and Deconfliction

615.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

615.1.1 DEFINITIONS

Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

615.2 POLICY

It is the policy of the Atherton Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

615.3 OPERATIONS DIRECTOR

The Chief of Police will designate a member of this department to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

615.4 RISK ASSESSMENT

615.4.1 RISK ASSESSMENT FORM PREPARATION

Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:

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(a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.

(b) Maps of the location.

(c) Diagrams of any property and the interior of any buildings that are involved.

(d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).

(e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).

(f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).

(g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).

(h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

615.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

615.4.3 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

(a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:

1. South San Mateo County SWAT Team
2. Additional personnel
3. Outside agency assistance
4. Special equipment
5. Medical personnel
6. Persons trained in negotiation
7. Additional surveillance

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8. Canines
9. Property and Evidence Section or analytical personnel to assist with cataloguing seizures
10. Forensic specialists
11. Specialized mapping for larger or complex locations

(b) Contact the appropriate department members or other agencies as warranted to begin preparation.

(c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.

(d) Coordinate the actual operation.

615.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The officer who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

The Atherton Police Department subscribes to the Western States Information Network (WSIN) and all dispatchers have been trained on the use and entry of the system.

615.6 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

(a) Operation goals, objectives, and strategies.

(b) Operation location and people:

1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic

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and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids

3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)

4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties, and children

(c) Information from the risk assessment form by attaching a completed copy in the operational plan.

1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.

(d) Participants and their roles.

1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.

2. How all participants will be identified as law enforcement.

(e) Whether deconfliction submissions are current and all involved individuals, groups, and locations have been deconflicted to the extent reasonably practicable.

(f) Identification of all communications channels and call-signs.

(g) Use of force issues.

(h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).

(i) Plans for detaining people who are not under arrest.

(j) Contingencies for handling children, dependent adults, animals, and other people who might be at the location in accordance with the Child Abuse, Senior and Disability Victimization, Child and Dependent Adult Safety, and Animal Control policies.

(k) Communications plan.

(l) Responsibilities for writing, collecting, reviewing, and approving reports.

615.6.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

615.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk or labor intensive operation to allow all participants to understand the operation, see and identify each other, identify roles and

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responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

(a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.

(b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.

(c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.

1. Exceptions may be made by the operations director for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.

(d) The briefing should include details of the communications plan.

1. It is the responsibility of the operations director to ensure that Dispatch is notified of the time and location of the operation, and to provide a copy of the operation plan prior to officers arriving at the location.

2. If the radio channel needs to be monitored by Dispatch, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.

3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

615.8 SOUTH SAN MATEO COUNTY SWAT TEAM PARTICIPATION

If the operations director determines that the South San Mateo County SWAT Team participation is appropriate, the director and the South San Mateo County SWAT Team supervisor shall work together to develop a written plan. The South San Mateo County SWAT Team supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the South San Mateo County SWAT Team supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

615.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

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Operations Planning and Deconfliction

615.10 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any South San Mateo County SWAT Team debriefing.

615.11 TRAINING

The Training Manager should ensure officers and South San Mateo County SWAT Team members who participate in operations subject to this policy should receive periodic training including, but not limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

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Unmanned Aerial System

616.1 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.

616.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned Aerial System (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

616.2 POLICY

Unmanned aerial systems may be utilized to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

616.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers 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.

616.4 PROGRAM COORDINATOR

The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current, and/or coordinating compliance with FAA Part 107 Remote Pilot Certificate, as appropriate for department operations.
- Ensuring that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require written authorization of the Chief of Police or the authorized designee, depending on the type of mission.

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- Coordinating the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.
- Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.

616.5 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted consistent with FAA regulations.

616.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.

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- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

616.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.

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Chapter 7 - Equipment

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Department Owned and Personal Property

700.1 POLICY

(a) It will be the policy of the Atherton Police Department to replace uniforms and equipment damaged in the line of duty, or worn beyond the point of repair.

700.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of Department property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of Department property may lead to discipline including, but not limited to, the cost of repair or replacement.

(a) Employees shall promptly report through their chain of command any loss, damage to, or unserviceable condition of any Department issued property or equipment assigned for their use.

(b) The use of damaged or unserviceable Department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.

(c) Except when otherwise directed by competent authority, or required by exigent circumstances, Department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.

(d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

(e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made in writing in memorandum form. This memorandum is to be submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Division Commander, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police who will then forward the claim to the Finance Department.

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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. There is a $100 limit on a watch.

(a) When making a claim for uniforms or equipment, the officer should submit some evidence as to the current cost of the item and its replacement. A current receipt should be submitted when applicable.

(b) When making a claim for civilian clothing the officer should submit evidence as to the date, place and cost of the item when purchased, the brand name and the material from which the garment was made. The Administration Division will establish the replacement value of the civilian item to be replaced.

700.3.1 REPORTING REQUIREMENT
A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report in memorandum form shall be submitted before the employee goes off-duty, or within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

(a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

(b) A written report in memorandum form shall be submitted before the employee goes off duty, or within the time frame directed by the supervisor to whom the verbal report is made.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY
If employees of another jurisdiction cause damage to real or personal property belonging to the Town, 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 ITEM LIFE EXPECTANCY

UNIFORM CLOTHES

Uniform Hat: 3-5 years

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Uniform Jacket: 5 years

Uniform Trousers: 2 years

Uniform Shirt: 2 years

Uniform Necktie: 1-2 years

Uniform Shoes (Boots): 1-3 years

Uniform Rainshoes (Boots): 5 years

CIVILIAN CLOTHES

Civilian Suit: 3 years

Civilian Shirt: 2 years

Civilian Necktie: 1 year

Civilian Shoes: 3 years

Civilian Raincoats: 2 years (Lightweight plastic)

Civilian Topcoat: 5 years (Including cloth or rubber raincoats)

Watch ($100 limit): 5 years

Eye Glasses: 2 years

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Police Vehicle Collision Report Procedures

701.1 PURPOSE

The purpose of this order is to outline the method by which an on-duty Town employee is to report a collision involving either a marked or unmarked vehicle.

701.2 POLICY

In the event an on-duty Town employee is involved in a collision (injury or non-injury), the employee shall immediately:

(a) Notify the Dispatch Center and request the Watch Commander respond to the scene.

(b) Request and/or render necessary medical aid.

(c) Protect the scene and not move the vehicle(s) unless it presents a danger to other motorists. If it is necessary to move the vehicle(s), the employee involved shall mark or clearly identify the position(s) of the vehicle(s) on the roadway.

(d) Secure the names of possible witnesses, or the license numbers of vehicles you think may have witnessed the collision.

(e) Do not argue at the scene. Keep calm and be courteous.

(f) If the collision occurred within the Town limits, the Watch Commander shall make the determination of what adjacent police department will be called to document the incident as a courtesy report.

(g) If the collision occurred outside the Town limits, the investigation of the collision will be handled by the local police department within the jurisdiction of occurrence.

(h) The employee shall provide the facts of the collision to the investigating agency.

701.3 SUPERVISOR RESPONSIBILITIES

(a) The Watch Commander at the scene shall be responsible for photographing the collision.

(b) The Watch Commander is responsible for obtaining or directing the necessary information be obtained to complete the Town Collision Report Form, including insurance information.

(c) The Watch Commander shall ensure the Town Collision Report Form is completed before the termination of the employee's shift, and do so personally should the employee be unable.

(d) The Watch Commander shall complete a report detailing his observations of the scene.

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Police Vehicle Collision Report Procedures

701.4 RESPONSIBILITY OF INVOLVED EMPLOYEE

(a) Any employee involved in a collision shall follow the procedures outlined in this order.

(b) The employee shall complete all necessary forms as required: i.e., collision report, worker's compensation report, etc.

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Vehicle Maintenance

704.1 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.

704.2 DEFECTIVE VEHICLES

When a Department vehicle becomes inoperative or in need of repair that affects the ability of the vehicle to safely operate, that vehicle shall be removed from service for repair and red-tagged. An E-mail shall be promptly completed and sent to the CSO by the employee who first becomes aware of the defective condition, describing the correction needed.

704.2.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

704.2.2 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

A Supervisor or CSO shall be notified if a vehicle has been used under the above conditions.

704.2.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the department armory prior to the officer going off-duty, or the vehicle being released for maintenance, service or repair.

704.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

704.3.1 PATROL VEHICLES

Officers shall inspect their patrol vehicle at the beginning of their shift and ensure the following equipment is present in the vehicle:

(a) Medical bag

(b) Defibrillator including pads, razors, and extra battery

(c) Fire extinguisher

(d) Jumper cables

(e) Traffic flares

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(f) Traffic cones

(g) Rifle

(h) Moving radar tuning forks

704.3.2 MEDICAL TRAUMA KIT

A medical trauma kit will be kept inside each marked patrol vehicle. These kits will be used to treat police department personnel who sustain work-related injuries.

In a life and death emergency, these kits can also be used to assist members of the public.

Training will be provided to all police department personnel on the contents of the kits.

704.4 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not leave a patrol vehicle at the end of their shift with less than 1/2 tank of fuel.

704.5 WASHING OF VEHICLES

(a) All units shall be kept clean at all times and shall be washed as necessary to enhance their appearance.

(b) Officers in patrol shall obtain clearance from the Watch Commander before responding to the car wash. Only one marked unit at a time should be at the car wash unless otherwise approved by the Watch Commander.

(c) Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in the designated receptacle provided for the shredding of this matter.

(d) Any trash, debris, or other items left in the vehicle at the end of the shift are subject to removal and/or destruction by the next officer using the vehicle.

704.6 NON-SWORN EMPLOYEE USE

Non-sworn employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Only sworn officers are allowed to remove weapons from vehicles. Non-sworn employees shall also prominently display the “out of service” placards or lightbar covers at all times. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

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Vehicle Use

706.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the Town of Atherton to provide assigned take-home vehicles.

706.2 POLICY

The Atherton Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

706.2.1 SHIFT ASSIGNED VEHICLES

Personnel assigned to routine scheduled field duties shall log onto the in-car computer inputting the required information when going on duty. If the vehicle is not equipped with a working in-car computer, they shall notify Dispatch for entry of the vehicle number on the shift roster. If the employee exchanges vehicles during the shift, the new vehicle number shall be entered.

Employees shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shift. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

706.2.2 UNSCHEDULED USE OF VEHICLES

Personnel utilizing a vehicle for any purpose other than their normally assigned duties shall first notify the Watch Commander of the reason. This section does not apply to personnel permanently assigned an individual vehicle (e.g., command staff, detectives), or to Evidence Room personnel assigned transportation duties to and from the maintenance yard, etc.

706.2.3 UNDERCOVER VEHICLES

Unmarked units, if not assigned to an individual employee, shall not be used without first obtaining approval from the respective unit supervisor.

706.2.4 AUTHORIZED PASSENGERS

Personnel operating department owned vehicles shall not permit persons other than Town employees or persons required to be conveyed in the performance of duty or as otherwise authorized to ride as a passenger in their vehicle.

706.2.5 PARKING

Town owned vehicles should be parked in their assigned stalls. Employees shall not park privately owned vehicles in any stall assigned to a Town owned vehicle or in other areas of the parking lot not designated as a parking space unless authorized by a supervisor.

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706.2.6 INSPECTIONS
The interior of any vehicle that has been used to transport any person other than an employee should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized items have not been left in the vehicle.

706.2.7 SECURITY OF PARKED POLICE VEHICLES
To ensure the safety and security of staff members and police equipment, police vehicles shall have their windows rolled up and their doors locked whenever and wherever the vehicle is left unattended.

This policy applies to all police vehicles except the canine (K-9) vehicle when the canine is present within the vehicle.

706.3 USE OF VEHICLES

706.3.1 ALCOHOL
Members who have consumed alcohol are prohibited from operating any department vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

706.3.2 PARKING
Except when responding to an emergency or when urgent department-related business requires otherwise, members driving department vehicles should obey all parking regulations at all times.

Department vehicles should be parked in assigned stalls. Members shall not park privately owned vehicles in stalls assigned to department vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

706.3.3 NON-SWORN MEMBER USE
Non-sworn members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Non-sworn members shall prominently display the "out of service" placards or light bar covers at all times. Non-sworn members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

706.4 UNMARKED VEHICLES
Vehicles are assigned to specific employees and their use is restricted to the assigned employee, unless otherwise approved by a supervisor.

706.5 DAMAGE, ABUSE AND MISUSE
When any department 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 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

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format and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

706.6 ATTIRE AND APPEARANCE

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

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Take Home Vehicle Policy

707.1 TAKE HOME VEHICLES

Motorcycle Traffic Officers and K9 handlers are authorized to drive their assigned motorcycles to their residence at the conclusion of his/her shift, and to drive their assigned motorcycle from that location to his/her assigned work site under the following conditions:

1. Commute distances shall be limited to a 60 mile radius from the Atherton Police Department..

2. Authorized Officers may travel to and from their residence and on-duty assignment. On-duty assignments may include, but are not limited to:

(a) Any uniformed work assignment.

(b) Court.

(c) Range and training days.

(d) Emergency call backs.

(e) Outside training assignments within close proximity of Atherton.

(f) Any assignment approved by the Traffic Unit Supervisor.

707.2 TAKE HOME VEHICLES "ON-CALL"

Motorcycle Traffic Officers and K9 handlers with take home vehicles shall be subject to “call back” to work for major events, emergencies, and/or disasters. The Traffic Unit Supervisor may authorize the “call back” for a Motorcycle Traffic Officer in the event of a major injury or fatal traffic collision. In absence of a Traffic Sergeant, the Watch Commander or any supervisor may “call back” and assign a collision investigator or motor officer to investigate the traffic collision.

707.3 RESPONSIBILITIES

Motorcycle Traffic Officers and K9 handlers with take home vehicles shall be in full uniform and shall monitor the Atherton Police Department radio frequency and/or the San Mateo County “green” channel while traveling to and from the work site.

Motorcycle Traffic Officers and K9 handlers travelling to and from the work site should render assistance at collision scenes, road hazards, or disabled vehicles as necessary. Motorcycle Traffic Officers and K9 handlers will not take enforcement action to/from work unless it is an extreme emergency.

Take home motorcycles shall be stored in a locked facility or garage. K9 handler vehicles should be parked in either a garage or an off-street parking space.

Under no circumstances will a take home vehicle be used for personal business.

707.3.1 EQUIPMENT REMOVAL

Prior to going off-duty, equipment such as the Lidar gun and E-Citation machine will be removed from the vehicle and stored appropriately at the Department.

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Take Home Vehicle Policy

Permission to take the Lidar gun and E-Citation machine home may be granted by a supervisor under special circumstances.

A motor officer may take their rifle home, provided they have a safe. Officers must show proof they have a safe prior to taking the rifle home.

707.4 UPKEEP AND MAINTENANCE

In accordance with the guidelines of the Fair Labor and Standards Act (FLSA), the Traffic Unit Supervisor shall insure that each officer assigned a take home motorcycle/vehicle is provided ample time on duty weekly to maintain his/her motorcycle/vehicle in a clean and serviceable condition. Such on duty cleaning and maintenance time may be provided at the beginning or end of their shift at the discretion of the Traffic Unit Supervisor or Watch Commander. Overtime is not authorized for the maintenance and upkeep of take home motorcycle/vehicle without prior supervisory approval.

707.5 VEHICLE TAKE HOME POLICY AGREEMENT

See attachment: Vehicle Take Home Policy Agreement.pdf

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Personal Protective Equipment

708.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Department 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.

708.1.1 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.

708.2 POLICY

The Atherton Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

708.3 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.

708.4 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.

708.5 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 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.

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The Rangemaster shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

708.6 PROTECTIVE RIOT GEAR

Members who make arrests or control crowds should be provided ballistic head protection with an attachable face shield.

708.7 RESPIRATORY PROTECTION

The Commander, or his or her designee, is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall 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.

708.7.1 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 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.

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(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.

708.7.2 MEMBER RESPONSIBILITIES FOR RESPIRATORY PROTECTION

Members shall not use self-contained breathing apparatus (SCBA), full-face respirators or cartridge respirators unless they have completed training requirements for the equipment.

Members exposed to environments that are reasonably known to be harmful due to gases, smoke or vapors shall use respiratory PPE.

Members using respiratory PPE shall (8 CCR 5144):

(a) Ensure that they have no facial hair between the sealing surface of the facepiece and the face that could interfere with the seal or the valve function. Members also shall ensure that they have no other condition that will interfere with the face-to-facepiece seal or the valve function.

(b) Not wear corrective glasses, goggles or other PPE that interferes with the seal of the facepiece to the face, or that has not been previously tested for use with that respiratory equipment.

(c) Perform a user seal check per department-approved procedures recommended by the respirator manufacturer each time they put on a tight-fitting respirator.

(d) Leave a respiratory use area whenever they detect vapor or gas breakthrough, changes in breathing resistance or leakage of their facepiece and ensure that the respirator is replaced or repaired before returning to the affected area.

708.7.3 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.

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708.7.4 SELF-CONTAINED BREATHING APPARATUS

Scene commanders may direct members to use SCBA when entering an atmosphere that may pose an immediate threat to life, would cause irreversible adverse health effects or would impair an individual's ability to escape from a dangerous atmosphere. These situations may include, but are not limited to:

(a) Entering the hot zone of a hazardous materials incident.

(b) Entering any area where contaminant levels may become unsafe without warning, or any situation where exposures cannot be identified or reasonably estimated.

(c) Entering a smoke- or chemical-filled area.

The use of SCBA should not cease until approved by a scene commander.

708.7.5 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.

708.7.6 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE

No member shall be issued respiratory protection that forms a complete seal around the face until (8 CCR 5144):

(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.

708.8 RECORDS

The Training Manager 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.

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1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the department records retention schedule and 8 CCR 5144.

708.9 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).

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Military Equipment

709.1 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).

709.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

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709.2 POLICY

It is the policy of the Atherton Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

709.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

(a) Acting as liaison to the governing body for matters related to the requirements of this policy.

(b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.

(c) Conducting an inventory of all military equipment at least annually.

(d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Atherton Police Department (Government Code § 7071).

(e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:

1. Publicizing the details of the meeting.
2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.

(f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).

(g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

709.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

Type: 40MM Less Lethal Launcher
Description: Single shot launcher
Quantity: 3
Capabilities: Operational range 10-100 ft.
Expected Lifespan: 10-20 yrs.
Manufacturer's Description: 40MM tactical single shot launcher.
Purpose and Authorized Uses: To compel an individual to cease his/her actions when such munitions present a reasonable option.
Fiscal Impact: $2,442.00 initial purchase of 3 launchers.
Legal and Procedural Rules: Refer to policies 306, 306.3, 306.4, 306.9, 306.10, 306.11.
Required Training: Initial orientation course including qualification; annual recertification including qualification.

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Compliance Mechanisms: Use is subject to the applicable policies (306, 306.3, 306.4, 306.9, 306.10, 306.11).

Type: 40MM kinetic energy projectiles
Description: Less lethal 40MM foam-tipped kinetic energy fired from an agency-authorized 40mm launcher.
Quantity: 30
Capabilities: Operational range 10-75 ft.
Expected Lifespan: 5 yrs.
Manufacturer's Description: 40MM sponge baton projectile delivering a blunt trauma effect.
Purpose and Authorized Uses: To compel an individual to cease his/her actions when such munitions present a reasonable option.
Fiscal Impact: $572.00 initial purchase for 30 projectiles.
Legal and Procedural Rules: Refer to policies 306, 306.3, 306.4, 306.9, 306.10, 306.11
Required Training: Initial orientation course including qualification; annual recertification including qualification.
Compliance Mechanisms: Use is subject to the applicable policies (306, 306.3, 306.4, 306.9, 306.10, 306.11).

Type: 40MM CS kinetic energy projectile
Description: Less lethal 40MM CS crushable foam kinetic energy round fired from an agency-authorized 40mm launcher.
Quantity: 15
Capabilities: Operational range of 10-75 ft.
Expected Lifespan: 5 yrs.
Manufacturer's Description: 40MM direct impact extended range round.
Purpose and Authorized Uses: Used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances.
Fiscal Impact: $450.00 initial purpose for 15 projectiles.
Legal and Procedural Rules: Refer to policies 306, 306.3, 306.4, 306.6 306.9, 306.10, 306.11
Required Training: Initial orientation course including qualification; annual recertification including qualification.
Compliance Mechanisms: Use is subject to the applicable policies (306, 306.3, 306.4, 306.6, 306.9, 306.10, 306.11).

709.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The

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military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

(a) Requesting military equipment made available pursuant to 10 USC § 2576a.

(b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.

(e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.

(f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.

(g) Acquiring military equipment through any means not provided above.

709.6 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.

709.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

709.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

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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. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

(a) Crime reports.

(b) Field Interview cards.

(c) Parole and Probation records.

(d) Computer Aided Dispatch data.

(e) Statewide Integrated Traffic Reporting System (SWITRS).

800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for Crime Analysis:

(a) Frequency by type of crime.

(b) Geographic factors.

(c) Temporal factors.

(d) Victim and target descriptors.

(e) Suspect descriptors.

(f) Suspect vehicle descriptors.

(g) Modus operandi factors.

(h) Physical evidence information.

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. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to them. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

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Dispatch

802.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of Dispatch. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

802.2 POLICY

It is the policy of the Atherton Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The Department provides two-way radio capability providing continuous communication between Dispatch and department members in the field.

802.3 DISPATCH SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of Dispatch, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for Dispatch.

Access to Dispatch shall be limited to Dispatch members, the Watch Commander, command staff and department members with a specific business-related purpose.

802.3.1 OFFICER IDENTIFICATION

Identification systems are based on factors such as beat assignment and officer identification numbers. Employees should use the entire call sign when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.

802.4 RESPONSIBILITIES

802.4.1 DISPATCHERS

Dispatchers report to the Commander. The responsibilities of the dispatcher include, but are not limited to:

(a) Receiving and handling all incoming and transmitted communications, including:

1. Emergency 9-1-1 lines.
2. Business telephone lines.
3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.
4. Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).

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5. Other electronic sources of information (e.g., text messages, digital photographs, video).

(b) Documenting the field activities of department members and support resources (e.g., fire department, EMS, allied agency law enforcement units).

(c) Inquiry and entry of information through Dispatch, department and other law enforcement database systems (CLETS, DMV, NCIC).

(d) Monitoring department video surveillance systems.

(e) Maintaining the current status of members in the field, their locations and the nature of calls for service.

(f) Notifying the Watch Commander or field supervisor of emergency activity, including, but not limited to:

1. Vehicle pursuits.
2. Foot pursuits.
3. Assignment of emergency response.

802.5 CALL HANDLING

This Department provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the dispatcher will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in Dispatch, the dispatcher should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the dispatcher is unable to identify the caller’s language, the dispatcher will contact the contracted telephonic interpretation service and establish a three-party call connecting the dispatcher, the LEP individual and the interpreter.

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Dispatch

Dispatchers should be courteous, patient and respectful when dealing with the public.

802.5.1 EMERGENCY CALLS

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. A person reporting an emergency should not be placed on hold until the dispatcher has obtained all necessary information to ensure the safety of the responding department members and affected individuals.

Emergency calls should be dispatched immediately. The Watch Commander shall be notified of pending emergency calls for service when department members are unavailable for dispatch.

802.5.2 NON-EMERGENCY CALLS

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the dispatcher to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the dispatcher returning to the telephone line or when there will be a delay in the response for service.

802.6 RADIO COMMUNICATIONS

The police radio system is for official use only, to be used by dispatchers to communicate with department members in the field. All transmissions shall be professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

(a) Members acknowledging the dispatcher with their radio identification call signs and current location.

(b) Dispatchers acknowledging and responding promptly to all radio transmissions.

(c) Members keeping the dispatcher advised of their status and location.

(d) Member and dispatcher acknowledgements shall be concise and without further comment unless additional information is needed.

The Commander shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant’s supervisor and processed through the chain of command.

802.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Atherton Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

802.6.2 RADIO IDENTIFICATION

Radio call signs are assigned to department members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. Dispatchers shall identify themselves on the radio with the appropriate station name or number, and identify the department

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member by his/her call sign. Members should use their call signs when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate department member. Members initiating communication with other law enforcement or support agencies shall use their entire radio call sign, which includes the department station name or number.

802.7 DOCUMENTATION

It shall be the responsibility of Dispatch to document all relevant information on calls for service or self-initiated activity. Dispatchers shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member’s arrival.
- Time of member’s return to service.
- Disposition or status of reported incident.

802.8 CONFIDENTIALITY

Information that becomes available through Dispatch may be confidential or sensitive in nature. All members of Dispatch shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as Department of Motor Vehicle records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel.

802.9 TRAINING AND CERTIFICATION

Dispatchers shall receive training consistent with minimum standards established by POST (Penal Code § 13510).

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Cell Phone and Electronic Device Booking

803.1 PURPOSE AND SCOPE

The Town of Atherton Police Department periodically retains cellular phones and other electronic equipment as evidence for forensic downloads. Electronic equipment that must remain on and charging, in order to extract usable data during the download, shall be securely stored in temporary electronic equipment lockers designed for this purpose.

803.2 POLICY

This policy provides for:

• RIMS property database entry procedures

• Proper storage and chain of custody procedures

• Safekeeping of individual locker keys

• Allowed retention period

The following procedures have been established for the effective operation of the locker in the Investigations Division.

803.3 PROCEDURES

The employee responsible for taking possession of a cell phone or any other electronic device shall enter the item into the RIMS Property database. Under the Property Location section of the entry the location "ELECTRONIC EQUIPMENT CHARGING LOCKERS" will be assigned. A RIMS label shall be printed and secured via magnetic clip to the exterior of the locker the item is housed in. The label will include the signature of the employee, as well the time and date the item was placed into the locker. The label shall remain there for the duration of the housing of the item.

Once the device is placed on a charging source within a locker, the locker will be secured. The key from the locker shall be removed and secured inside a lock box, located on the desk of the Detective Sergeant. The lock box will remain closed and the individual code will not be distributed. The code will be changed routinely by the Detective Sergeant for security purposes.

The locker is not intended for long-term storage purposes. Once the device is downloaded, the device shall be packaged and booked immediately into Property. Chain of custody and property security will be maintained at all times.

No other evidence or property shall be stored in the locker, other than electronic devices that need to remain on and charging for evidence collection.

803.4 SUPERVISOR RESPONSIBILITIES

The Detective Sergeant will conduct a weekly audit of the locker to ensure the procedures above are being followed.

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Property and Evidence

804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

804.2 PROPERTY DEFINITIONS

Evidence: Property which may be related to a crime, or which may implicate or clear a person of a criminal charge.

Found: Non-evidentiary property which, after coming into the custody of a law enforcement agency, has been determined to be lost or abandoned and is NOT known or suspected to be connected with any criminal offense.

Safekeeping: Non-evidentiary property which is placed into the custody of a law enforcement agency for temporary protection on behalf of the owner.

Destruction: Any property in custody of an agency whose disposition has been determined and is subject to destruction.

Recovered Stolen: Property recovered that has been determined stolen and being held as evidence or as authorized by the investigating officer, the District Attorney or judge, and will eventually be available for release to the rightful owner.

Forfeiture:

(a) Property that has been seized pursuant to H & S codes principally for storage pending civil disposition.

(b) In cases of mental instability per the W & I code.

(c) In cases of domestic violence cases under the Penal Code.

Under Observation:A property item that is encountered under circumstances indicating that it may be stolen, but having made an inquiry into APS, received a ‘no data on APS file’ response.

804.3 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. Care shall be taken to maintain the chain of custody for all evidence. A case number shall be taken for all property taken by an employee into his/her possession.

804.3.1 PROPERTY ROOM BOOKING PROCEDURE

Property items should be processed, packaged and submitted prior to the end of the shift. In the event evidence/property cannot be completed prior to end of shift, items may be stored in temporary locker(s) with supervisor approval. The property officer shall be notified of the storage prior to end of shift via written notification (e-mail or memo).

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Property and Evidence

The Property Officer shall employ the “Right of Refusal” for any property and evidence that is submitted that does not conform to Department policy and packaging standards. The Officer will be notified via e-mail regarding the need for repackaging and the location to access the evidence.

Employees booking property shall observe the following guidelines:

Complete the property tab in RIMS describing each item of property separately, listing all serial numbers, owner’s name, finder’s name, and other identifying information or markings.

- All officers shall book each item of property and/or evidence in accordance with the Atherton Police Department Evidence and Property Packaging Manual.
- When the property is too large to be placed in a property locker, the item may be retained in the old armory hallway. The booking officer must notify the property officer via e-mail of property placed in this location.
- Perishables (food, candy, liquids [including alcohol]):

  With evidentiary value shall be photographed and then disposed of by the collecting officer (exceptions apply, contact property officer).

  Without evidentiary value shall be disposed of by the collecting officer.
- Assure that any serialized property retained by the Police Department is entered into the appropriate State Department of Justice Computer.

  Officer will verify all stolen property hits with the originating agency prior to confiscating the item. After verification, Dispatch will be responsible to send a status update to the originating agency.

  The status of the property should be reflected in the offense report along with the indication that a ‘Locate’ was sent to the originating agency. A copy of the ‘Locate’ shall be scanned into the report.

  Dispatch will be contacted and provided with a property form when Officers write an offense report documenting property as Stolen, Lost, Found, Recovered or Under Observation into the Department of Justice Automated Property System or Stolen Vehicle System. All entries must be double checked by a second authorized employee.

  The property officer shall notify Dispatch upon disposing of any serialized property so the appropriate entries into CLETS can be performed.

  Dispatch shall scan and attach the case report in RIMS.

804.3.2 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.

804.3.3 PACKAGING OF FENTANYL (SAN MATEO COUNTY CRIME LAB REQUIREMENTS)

When submitting controlled substance evidence to the Forensic Laboratory for analysis that is believed to contain Fentanyl, submit the evidence packaged in double K-Pak packaging. Both

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packages will be required to be heat sealed separately and the outer package should be marked "Suspected Fentanyl." Only the outer package should contain the evidence label and where the seals would require signatures and dates. The internal packaging should not have an evidence label and does not need to be signed and dated.

If the item is confirmed as Fentanyl then a caution label will be placed on the outer packaging.

804.3.4 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 Officer is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

804.3.5 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. Contact the property officer for assistance.

(b) Found license plates determined not to be stolen or connected with a known crime shall be handled as ‘Found’ property. All ‘Found’ license plates shall be entered into SVS.

(c) All bicycles and bicycle frames require a property record. Both items shall be stored in the bicycle storage area.

(d) All cash shall be counted in the presence of a supervisor and the currency bag initialed by both the booking officer and the supervisor.

(e) Syringes that are considered ‘evidence’ shall be placed in a sharps container. The sharps container shall be placed in a K-Pak and sealed. The evidence label shall be placed on the K-Pak and booked into evidence with a copy of the property list. Syringes with no evidentiary value (simply need to be destroyed), shall be placed by the officer in the sharps container located in the evidence processing area.

(f) Overly dirty, smelly or heavy items shall be stored in the bicycle storage area.. The property officer shall be notified regarding this action.

(g) All backpacks, purses, bags, luggage, etc. shall be thoroughly searched by the officer who is booking them to insure that the item does not contain perishables or separately serialized property. Perishable items shall be photographed by the officer and then properly disposed of. Perishable items shall not be placed in an evidence locker. All serialized property shall be entered into the appropriate database.

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(h) Items that must remain cold shall be placed in a refrigerated evidence locker. The location of the item(s) shall be listed as 'FRIDGE' in the RIMS report.

(i) Flammable, hazardous or volatile items shall not be booked in the property room. Contact the property officer immediately for further instruction.

(j) Vehicles of evidentiary value shall be placed in the parking lot with a protective cover.

(k) Spent Taser cartridges with a serial number shall be entered into the APS system and booked into the property room as 'Evidence.'

(l) Officers shall upload photos of evidentiary value to RIMS in accordance with Departmental policy.

Town property, unless connected to a known criminal case, should be released directly to the appropriate Town Department. No formal booking is required.

804.3.6 CURRENCY GUIDELINES

This procedure establishes guidelines for the collection/packaging, containment and transfer of currency associated with Atherton Police Department cases.

Collection: Any and all currency collected by an officer, regardless of the amount or denomination, will be kept separate from any other property or evidence. A property receipt shall be issued to the associated person, except in the case of asset forfeiture, where asset forfeiture paperwork will be served instead. The officer shall do the following:

- Photograph the currency and upload the photos to RIMS
- Count the currency in the presence of a Supervisor
- Place the currency in a currency envelope
- The officer and supervisor shall both sign the envelope
- Document the circumstances surrounding the collection of the currency in a RIMS case report
- Book the currency envelope with the appropriate RIMS generated property label and property list

Containment/Transfer:

Found

Currency determined to be 'Found' will remain in the custody of the Atherton Police Department for a minimum of 90 days. A property receipt shall be issued to the finder. A the end of the 90 day period, found currency totaling over $1,000 will be forwarded to the Finance Department for deposit into the Town's general fund. The particulars of the currency shall be documented in the 'property' section of the case report. The category shall be 'Cash, Coins, other Currency.' The status shall be 'Found.'

Safekeeping

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Property and Evidence

Currency determined to be in the custody of the Atherton Police Department for the purpose of 'Safekeeping' will remain in the custody of the Department for a minimum of 60 days. If the owner of the currency was issued a receipt, and does not claim the currency within the 60 day period, the currency shall be forwarded to the Finance Department for deposited into the Town's general fund. The particulars of the currency shall be documented in the 'property' section of the case report. The category shall be 'Cash, Coins, other Currency.' The status shall be 'Safekeeping.'

Evidence

Currency for any given case totaling under $1,000, and determined to be 'Evidence', will remain in the custody of the Atherton Police Department until a final disposition of the case is received from the Court. Currency for any given case over $1,000 will be forwarded to the Finance Department for deposit into the bank, where it will remain until a final disposition is received from the Court. Currency totaling over $1,000 may remain at the Police Department and stored in the evidence room safe if extenuating circumstances exist, or upon approval of the Supervisor. Evidentiary currency that is eligible to be returned to an owner will be made available for release after final disposition from the Court is received. If a property receipt was issued, the currency will be held for at least 60 days after the final disposition is received. Currency that is not claimed within 60 days of the final disposition will be forwarded to the Finance Department for deposit in the general fund after the required notices, as described in section 804.3.6 have been posted.

The particulars of the currency shall be documented in the 'property' section of a case report. The category shall be 'Cash, Coins, other Currency.' The status shall be 'Evidence.' **If an officer needs to retain the actual bills/currency as evidence the officer shall specify such on the property section of the police report.**

Recovered

Recovered currency totaling over $1,000 will be forwarded to the Town Finance Department, where it will be deposited into the bank and remain until a final disposition for the case is determined. Recovered currency totaling less than $1,000 will be retained in the Atherton Police Department 'safe' area, where it will remain until a final disposition for the case is determined. Currency held in the safe will be retained for up to 60 days from the time the rightful owner is notified it is available for pickup. Unclaimed recovered currency will be deposited into the Town's general fund after the required notices, as described in section 804.3.6 has been posted. The particulars of the currency shall be documented in the 'property' section of a case report. The category shall be 'Cash, Coins, other Currency.' The status shall be 'Recovered.'

Seized/Asset Forfeiture

Currency or assets that are seized by the Atherton Police Department that are valued at $400 or above, shall be retained until arrangements are made by the Detective Sergeant/Commander to have the currency and/or assets delivered to the District Attorney's Office. The officer writing the report and justification for forfeiture shall complete all applicable forfeiture paperwork and serve a copy to the suspect/defendant(s). The particulars of the currency shall be documented in the 'property' section of a case report. The category shall be 'Cash, Coins, other Currency.'

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The status shall be ‘seized.’ The Detective Sergeant/Commander will review the case and then facilitate the deliverance of all asset forfeiture funds and paperwork to the District Attorneys Office. The employee charged with the delivery to the District Attorneys Office shall check the items out of Evidence and sign a RIMS property form. Upon delivery of the items, a receipt from the District Attorneys Office shall be obtained. The receipt shall be returned to the property officer.

804.3.7 UNCLAIMED MONEY

In cases where money is no longer required as evidence and remains unclaimed after three years, the Department shall have a notice published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code section 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 section 50051).

Any denomination with a value of less than fifteen dollars ($15.00) or any amount if the depositor/owner’s name is unknown, which remained 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 section 50055).

If the money remains unclaimed by the date designated in the published notice, the money will become the property of the 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. Money obtained through asset forfeiture will become the property of the Department to fund official law enforcement operations (Health and Safety Code section 11469).

804.3.8 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 has complied with the requirements of Penal Code § 33850 et seq.

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The Property Officer shall ensure the Records Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Center Policy).

804.4 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

804.4.1 PACKAGING CONTAINERS

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 drug pipes., Syringe tubes shall be used to package syringes and needles.

A RIMS property label shall be securely attached to the outside of all items or group of items packaged together. Labels should NOT be affixed directly to ANY property. The following types of packaging containers are available:

- Paper bags and envelopes of various sizes to store items of various sizes
- Heat-sealed plastic bags are to be used for all narcotic evidence
- Paper envelopes are suitable for any item that may contain moisture

804.4.2 PACKAGING NARCOTICS

The officer seizing narcotics or dangerous drugs shall retain property in their possession until it is properly weighed, packaged, tagged and placed in an evidence locker.

Narcotics and dangerous drugs shall be packaged in envelopes of appropriate size, which are available in the evidence processing area. The booking officer shall initial the back of the sealed envelope, along the line of evidence tape. Narcotics and dangerous drugs shall not be packaged with other property.

Green, wet or fresh plant material should be dried prior to packaging. Contact the property officer for assistance.. Paper bags shall be utilized for packaging.

804.4.3 PACKAGING BIOHAZARDS

Different classifications of property require special handling to ensure the well being of property personnel, the officers investigating the case, the public, and to protect the integrity of the evidence. All employees will adhere to reasonable precautions in the handling of biohazard items. Items can contain HIV, Hepatitis A, B, C, etc. and still pose a contamination danger, even when

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dried. Unless required for evidentiary purposes, syringes should NOT be booked into evidence. All sharps items must be stored in approved containers, which shall be provided for disposal.

A “biohazard” label should be attached to the package that contains any item that is a biohazard. Items requiring special drying (blood, urine, etc) should be placed in an open paper bag that is then put into a biohazard orange or red plastic bag and placed in the old armory hallway. The property officer will then place items in a drying area until air-dried. At that time, the property officer will package and store the evidence.

804.4.4 PACKAGING WEAPONS

All weapons will be unloaded and rendered safe. All firearms should be placed in gun boxes and secured to the box with a ‘zip tie’ to prevent shifting. A RIMS property label will be affixed to the box. Firearms submitted with biological fluid on the surface shall have a ‘biohazard’ sticker attached.

Property personnel ARE NOT allowed, under any circumstances, to open sealed gun boxes to check firearms for safety or to confirm condition or serial numbers. Field personnel, prior to sealing the firearm in a gun box, shall take digital photographs of the firearm. The photos will depict the firearm serial number and the fact that the firearm has been rendered safe (unloaded with the action open.) The photos will be loaded into RIMS. A ‘rendered safe’ sticker will be placed on the box with the booking officer’s initials and the date.

If for some reason the firearm cannot be made safe, field personnel will affix an “unable to render safe” sticker shall be affixed to the package containing the firearm. These firearms must then be inspected by an agency armorer/firearm specialist in a safe environment and rendered safe. A report is required specifying who rendered the firearm safe, and what measures were taken to do so.

804.5 RECORDING OF PROPERTY

The property officer receiving custody of evidence or property shall record in RIMS the date and time the property was received and where the property will be stored.

Any changes in the location of property shall be updated in the property location section of RIMS.

804.6 PROPERTY CONTROL

Each time a property officer receives property or releases property to another person, he/she shall enter the information into RIMS. Officers desiring property for court shall contact the Property Officer immediately to make an appointment for property release.

804.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, a corresponding entry will be made in RIMS.

804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

Evidence being submitted to the San Mateo County Crime Lab will be placed in laboratory evidence envelopes. Evidence placed into other containers (paper bags, boxes, K-Pak type bags, or cans) must have a laboratory evidence label affixed to it. The officer packaging the item(s) must completely fill out the crime lab label for timely processing of the evidence.

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Property and Evidence

804.6.3 STATUS OF PROPERTY

Temporary release of property to officers shall be noted in RIMS, stating the date, time and to whom it is released. The property officer shall print a RIMS invoice documenting to whom property is being released and the reason for the release. Any employee receiving property shall sign the invoice and is responsible for such property until it is returned to either the property officer or authorized person or entity.

804.6.4 CONSIDERATIONS FOR PROPERTY DISPOSAL

Release of property shall be made upon receipt of an authorized release form. The Court Complaint Disposition Report, District Attorney's Office Closed Case Memo or the Criminal Justice computer (CJIS) will all serve as avenues to verify authorization to release property. The Investigation Unit shall authorize the final disposition or release of all evidence and property coming into the care and custody of the Department.

(a) Frequently property/evidence may be retained in cases with multiple defendants. Care must be taken in reviewing property and case reports to ensure that the property proposed for release or disposal is no longer needed for additional suspects' trials. At month end, the District Attorney's office will forward a list of closed cases to the property officer.

(b) Items taken pursuant to a search warrant may require a court order prior to release or destruction per PC 1536. This does not preclude the need for waiting the full appeals period, nor for special cases, which may need evidence to be retained for longer periods of time. Anytime a court order is received, the Investigations Unit should be notified prior to taking any action.

(c) Items held by the court as exhibits need a court order for disposition, destruction or diversion per PC 1417 et al.

(d) Statute of Limitations in open felony cases (a suspect has not been established and there is no warrant issued) evidence shall be retained for 3 years. Exceptions to this are:

1. Felony sexual offenses - 10 Years
2. Felonies punishable by 8 years or more - 6 years
3. PC 368 felonies (except theft or embezzlement) - 5 years
4. PC 803(c) felonies - 4 years

(e) Statute of Limitations in open misdemeanor cases (a suspect has not been established and there is no warrant issued) evidence shall be retained for 1 year. Exceptions to this area:

1. PC 647.6 - 2+ years
2. BP 729, 7027-7189 - 2+ years

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(f) Cases that involve the following shall be retained indefinitely, except when disposal release is ordered by the Commander, Detective Sergeant or investigating officer, District Attorney's office the Court or death of the defendant:

1. Property from Homicide
2. Embezzlement of public funds
3. Falsification of public documents

(g) All evidence in cases involving the following will be retained for 7 years and then reviewed annually by the Investigative Unit:

1. Unattended deaths (may vary based on age of decedent)
2. Fatal accidents
3. Civil lawsuits
4. Death penalty cases

(h) Generally, evidence may not be released or disposed of prior to the adjudication of the case and the expiration of the appropriate appeals period following sentencing (30 days following sentencing on misdemeanor and 60 days on felony cases) in accordance with CRC 8.320 and CRC 8.782 (Rules of the Court). The Department will wait an additional 90 days beyond these dates to verify that no appeal has been initiated.

(i) Maintaining evidence from capital crime homicides, embezzlement of public funds, or falsification of public documents cases should be retained indefinitely, except when disposal release is ordered by the Investigative Unit, District Attorney's Office, the Court, or death of the defendant. Biological material from convicted felons meeting the criteria of PC 1405 must be maintained for duration of incarceration, or when notice of disposal is given to all appropriate parties, and no response is received within 90 days.

(j) All evidence that is requested to be retained for civil litigation involving the Town of Atherton shall not be released or destroyed without prior approval of the City Attorney's Office. The property officer releasing the property must request a photo ID and record the information on the property release form. Acceptable forms of ID are a California Driver's License or ID card, a passport, or another state's valid driver's license with a photo. The person receiving the property must sign the property release form. The form is to be scanned and attached to the case report.

804.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of 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

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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.

A Property Officer shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Center for filing with the case. If some items of property have not been released, the property card will remain with the Property and Evidence Section. 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 Section 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 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).

804.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

804.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Detective 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 and Safety Code § 11364.

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804.6.8 CONTROL OF NARCOTICS AND DANGEROUS DRUGS
The Investigations Division will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of the Department, including paraphernalia described in Health and Safety Code section 11364.

804.6.9 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 Atherton 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.

804.6.10 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION
The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

804.7 DISPOSITION OF PROPERTY
All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property Officer shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

804.7.1 EXCEPTIONAL DISPOSITIONS
The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)

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- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

804.7.2 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Section Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

(a) The defendant

(b) The defendant's attorney

(c) The appropriate prosecutor and Attorney General

(d) Any sexual assault victim

(e) The 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 Section Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the 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).

804.7.3 PROPERTY FOR SAFEKEEPING

Property that is being held for safekeeping shall be returned to the legal owner upon request or by legal mandate. Property (excluding firearms) not claimed within 90 days is to be considered intentionally abandoned by the owner and disposed accordingly.

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Property and Evidence

804.7.4 RECOVERED PROPERTY

Property may be released by the property officer to the rightful owners prior to the conclusion of a trial under the authority of a court order, or upon the written authorization of the representing District Attorney.

(a) Prior to release, a picture of the property and the owner will be taken.

(b) The owner must sign a Declaration of Ownership and agree to neither destroy, sell, nor give away the property until the conclusion of legal proceedings.

(c) The person must present a photo ID.

(d) The person must sign the property release form.

804.7.5 SEARCH WARRANT

Property taken under the authority of a search warrant may be released under the authority of the judge who has the jurisdiction.

The investigating officer will seek the release of property with the assistance of the District Attorney's Office. Once a court order is obtained, the property officer will release only that property described in the court order. The property officer can question the provisions of the court order and not release the property until the District Attorney has been consulted. The court can be petitioned to reverse its decision if the property officer can show just cause.

804.7.6 GENERAL DISPOSAL GUIDELINES

The Property Officer will update and maintain the property records regarding the disposition of property to be destroyed.

Disposition of property to be destroyed:

(a) Any item which is perishable, deteriorating, or posing an increased danger shall be destroyed immediately.

    1. A photo shall be taken prior to destruction.

(b) Property of little or no auction value can be disposed of r, except as otherwise directed below.

(c) Documents considered sensitive in nature will be shredded.

(d) All containers that possess alcohol shall be emptied prior to booking.

(e) Property of value (except firearms, money, ammunition and controlled substances) will be sold at auction or designated for Departmental use.

(f) Pursuant to legal requirements, firearms will be destroyed, designated for Departmental use, given to a law enforcement agency or the armed forces.

(g) Ammunition will be disposed of through Department resources.

(h) Controlled substances and drug paraphernalia will be burned or disposed of at an authorized, licensed facility.

(i) Hazardous materials will be disposed of through a hazardous disposal firm.

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(j) Knives, clubs or other dangerous weapons (excluding firearms) will be destroyed.

(k) Fireworks will be turned over for destruction during designated destruction periods determined by the San Mateo County Bomb Squad.

(l) All unclaimed money will be handled in accordance with section 804.7.2. Rare coins or foreign money will be sold at public auction.

804.7.7 NARCOTICS DESTRUCTION

Controlled substances and narcotic paraphernalia will be destroyed by the property officer after receiving authorization for such disposal.

(a) Items to be destroyed are pulled from storage and placed in a container labeled "Narcotics for Destruction." Each container is sealed, labeled, and numbered.

(b) A list is prepared noting the case numbers of the drug items in the shipment.

(c) An appointment for disposal burn must be made in advance.

(d) The property officer must obtain a court order for the destruction of the narcotics from a magistrate.

(e) Items to be destroyed will be transported to an authorized burn facility accompanied by an officer. The disposal of all evidence must be witnessed.

804.7.8 DESTRUCTION OF PIPES

Per the San Mateo County District Attorney's Office:

On all misdemeanor 11364 cases, agencies are free to destroy the pipe after photographing the pipe against a ruler. Please submit a color photo of the pipe with the greenie packet at the time the case is submitted for filing. Officers should indicate in their report that the pipe was photographed and destroyed per departmental policy. This procedure does not extend to pipes that are already booked into evidence, nor does it apply to cases where the pipes are a part of a felony case (e.g. 11364 attached to a 11378 case).

The officer will be required to write in their report: “The pipe was photographed and destroyed per departmental policy."

804.7.9 AUCTION FUNDS

All unclaimed property which is not destroyed, and is of some value, can be auctioned. Checks and receipts are mailed to the property officer by the auction company after the auction and are to be deposited in the Town's General Fund.

804.8 CONFISCATION, RETENTION AND DESTRUCTION OF FIREARMS

Firearms that come into the possession of the Atherton Police Department will fall into one of the following categories:

- Evidence
- Safekeeping

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- Found
- Recovered
- Booked for Destruction

When a firearm is taken into the custody of the Atherton Police Department, the officer shall issue a Receipt and Notice of Rights form to the person who was in possession of the firearm(s) unless the weapon is currently listed in AFS as stolen. A copy of the receipt will be forwarded to the property officer. An additional copy shall be forwarded to the Records division for scanning into the associated case report. Individuals claiming title to firearms eligible for release must apply to the Department of Justice for eligibility to take possession.

If a receipt was not issued to the possessor at the time the firearm(s) were taken into custody, the officer must make arrangements for the receipt to be delivered via fax or certified mail.

804.8.1 FIREARMS SEIZED OR COLLECTED AS EVIDENCE

Patrol Responsibilities:

- If the firearm has a serial number, the officer shall contact dispatch to check the number through the DOJ Automated Firearm System (AFS).
- The officer shall issue a Receipt and Notice of Rights to the person who was in possession of the firearm(s) unless the firearm has a ‘stolen’ status in AFS.
- The officer shall document the circumstances surrounding why the firearm was taken as evidence via a case report in RIMS:
    - The particulars of the firearm(s) will be documented in the “Property” section of the case report
    - The category shall be “Firearms”
    - The status shall be “Evidence”
    - If ammunition is also booked, the officer shall list the ammunition as a separate item of property
- If the firearm has a serial number, the officer shall complete a Firearms Entry Request form indicating that the firearm is to be entered into AFS as ‘Evidence’ and also as a ‘Crime Gun’, should circumstances in the report make ‘Crime Gun’ entry necessary. **NOTE: Pellet or BB guns shall be entered as property into the Automated Property System. They are not firearms.** If the serial number of the firearm has been partially or completely obliterated, the officer shall indicate such for the crime gun entry and “obliterated” shall serve as the serial number information. The officer shall indicate on the form all the particulars of the firearm and the level of entry that is being requested (may be done via checkbox on form).
- The officer shall render the firearm(s) ‘safe’, take the required photographs and book the firearm(s) as “Evidence."

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- If fingerprinting is required a “DO NOT TOUCH” note may be placed with the firearm(s) when they are placed in the evidence locker. The officer will include a completed Crime Lab adhesive label for adhesion to the box.
- The officer shall print a property label for each firearm booked and affix it to the firearm box.

804.8.2 FIREARMS COLLECTED AS SAFEKEEPING

Patrol Responsibilities:

- The officer shall issue a Receipt and Notice of Rights to the person from whom the firearms were collected.
- If the firearm has a serial number, the officer shall request a check be made through AFS.
- The officer shall document the circumstances surrounding why the firearm was taken for safekeeping via a case report in RIMS:
  - The particulars of the firearm(s) will be documented in the “Property” section of the case report
  - The category shall be “Firearms”
  - The status shall be “Safekeeping”
  - If ammunition is also booked, the officer shall list the ammunition as a separate item of property
- If the firearm has a serial number, the officer shall complete an AFS entry form indicating that the firearm is to be entered into AFS. The officer shall indicate on the form all of the particulars of the firearm and indicate that the firearm(s) are to be entered as “Safekeeping.” The officer shall submit the form to Communications so that the firearm may be entered into AFS.
- The officer shall render the firearm(s) as ‘safe’, take the required photographs and then book the firearm(s) in as “Safekeeping."
- The officer shall print a property label for each firearm booked and affix it to the firearm box.

Safekeeping Due to Domestic Violence or 5150 Committals

Patrol Responsibilities for 5150 Committals:

Request that a copy of the report be forwarded to the City Attorneys Office (with supervisor approval), along with copies of the officer’s declaration in support of not returning the firearm(s) *(if applicable).* The City Attorney must file a petition with the Court within 30 days of the incident, alleging that the return of these items would result in endangering the person or others.

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Property and Evidence

If the petition from the City Attorney for firearms abatement is not affirmed, the firearm(s) will be held in Property/Evidence for the duration of 180 days to comply with Section 33875 of the Penal Code. A LEGR application is required for release.

If the abatement is affirmed, the Court shall notify the person to appear at a hearing. The person has 30 days to respond.

If after the hearing, the Court determined the return of the firearm would endanger the person or others, the Department may destroy the firearm within 180 days of the determination, **unless** the person contacts the law enforcement agency to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to the Section 33870 of the Penal Code.

If the person does NOT respond, the agency may file for a petition for order of default, allowing for destruction of the firearm in 180 days from the date the Court enters the default **unless** the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Section 33870 of the Penal Code.

Patrol Responsibilities for Domestic Violence:

If the officer has reasonable cause to believe that the return of the firearm or weapon would likely endanger the victim or reporting party of the assault or threat, he/she (with Supervisor approval) may initiate a petition to the superior court within 60 days of the seizure to request that the firearm not be returned.

When firearms are confiscated related to domestic violence, where the possessor is under indictment, the firearms will be held until the case is adjudicated and the possessor is able to submit a LEGR application.

When firearms are confiscated related to cases of domestic violence, where no charges are filed (i.e. 'cooling off period'), the firearms will be made available as soon as the possessor receives clearance from DOJ via a LEGR application.

If the owner is prohibited from ownership and the firearm is not illegal, he/she may sell/transfer the firearm to a licensed firearms dealer.

Safekeeping Pursuant to Restraining Orders

Patrol Responsibilities:

The Court, upon issuance of a protective order, may require the respondent to sell any firearms in that person's control to a licensed firearms dealer or relinquish them for the duration of the protective order, pursuant to Family Code section 6389(c).

The firearm will be held for safekeeping in Property/Evidence for 180 days pursuant to Section 33875 of the Penal Code or for the duration of the restraining order in cases where the firearms have not been ordered abated. Individuals wishing to claim (or re-claim) the firearms must petition the Department of Justice with a LEGR application.

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804.8.3 FIREARMS COLLECTED AS FOUND OR RECOVERED

Patrol Responsibilities:

- If the firearm has a serial number, the officer shall request that a check be made through the Automated Firearms System (AFS).
- If notified that the firearm is showing a status of “stolen” in AFS, the officer shall request that he originating agency be notified for confirmation of the stolen status.
- The officer shall document the circumstances surrounding the finding or recovery of the firearm(s) via a case report in RIMS:
    - The particulars of the firearm(s) shall be documented in the “Property” section of the case report
    - The category shall be “firearms”
    - The status shall be “Found” or “Recovered”
    - If ammunition is also booked, the officer shall list the ammunition as a separate item of property
- If the firearm has a serial number, the officer shall complete a Firearms Entry Form indicating that the firearm is to be entered (or updated) in AFS as ‘Found’ and ‘Crime Gun.’
- The officer shall submit the form to Dispatch for entry or update in AFS. **NOTE: Pellet or BB guns with serial numbers shall be entered as property into the Automated Property System (APS).**
- If stolen guns are recovered, and were in the possession of a suspect, the officer will ensure that appropriate charges are added to the report and/or arrest. See Section: “Firearms seized or collected as Evidence."
- The officer shall render the firearm(s) as ‘safe’, take the required photographs and then book the firearm(s) into Evidence.
- The officer shall provide a completed lab envelope and a completed case report as soon as possible that will accompany the firearm(s) to the Crime Lab for processing.
- The officer shall print a property label for each firearm booked and affix it to the firearm box.

804.8.4 FIREARMS DISPOSAL AND DESTRUCTION

(a) A list of all weapons is attached to a court order request form and submitted to a Superior Court magistrate for signature.

(b) Weapons that are authorized for disposal are destroyed once each calendar year, or sooner if necessary to conserve space and utilization of personnel, and security of the weapon(s).

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(c) Prior to destruction, the weapons are inventoried.

(d) An appointment must be made with the disposal site in advance.

(e) Property personnel, accompanied by a sworn officer, will transport the weapons to a destruction facility and shall witness the destruction of each weapon.

(f) All serialized weapons will be entered with the appropriate status code in the Department of Justice Automated Firearms System (AFS):

1. If the weapon(s) is/are associated with a case, the AFS entry will be scanned to the case file.

2. If the weapon(s) is/are not associated with a case, a single case report will be assigned to document destruction.

(g) All documentation related to the destruction transaction shall be documented in the associated case file.

s) is/are associated with a Weapons that are authorized for disposal are destroyed once during each calendar

year, or sooner if necessary to conserve space and utilization of personnel, and

security of the weapon(s).

804.9 INVENTORY OF THE EVIDENCE ROOM

(a) An inventory of all evidence held by the department shall be conducted annually.

(b) 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(s) not associated to the property room or function to insure that records are correct and all evidence property is accounted for.

804.10 AUDITS AND INSPECTIONS OF THE EVIDENCE ROOM

(a) Trimester audits of evidence and property held by the Department shall be conducted by personnel not routinely or directly connected with evidence control.

1. First trimester will include 10% of all held evidence/property and 100% of all drugs, guns, and money.

2. Second trimester will include 10% of all held evidence/property and 100% of all drugs, guns, and money.

3. Third trimester will include 100% of all held evidence/property, drugs, guns, and money.

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Temporary Locker Policy

805.1 PURPOSE AND SCOPE

The Atherton Police Department has installed temporary lockers for employees to store property items which need to be booked into evidence lockers. The temporary lockers will maintain the property's chain-of-custody requirements. The temporary lockers will be used to secure un-booked property when the employee must leave the police department to handle a call for service prior to securing the property into an evidence locker.

805.2 EMPLOYEE RESPONSIBILITIES

If the employee has property he or she is processing to book into an evidence locker, and the employee must leave the police department to handle a call for service, the employee will follow the below guidelines for the proper temporary storage of the property. At no time will the property to be booked be left unattended.

805.3 GUIDELINES

(a) The employee will place the property into one (or more) of the temporary lockers.

(b) The employee will close the door on the temporary locker and lock the door.

(c) The employee will take the temporary locker door key with them.

1. The employee will keep the temporary locker key on them and will not relinquish control of the key to any other employee.

(d) The employee may now leave the police department to handle the call for service.

(e) Upon return to the police department the employee will remove the property from the temporary locker.

(f) The employee will leave the temporary locker door open with the key in the locking mechanism.

(g) The employee will book the property into an evidence locker per Policy 804 (Property Procedures).

805.4 LOST KEYS

Any employee who loses one or more keys to the temporary lockers shall immediately complete an Inter Departmental Correspondence form to the Commander advising him or her of this fact.

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Records Center

806.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Atherton Police Department Records Center. The policy addresses department file access and internal requests for case reports.

806.1.1 NUMBERING SYSTEMS

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with "1" starting at midnight on the first day of January of each year. As an example, case number 11-1 would be the first new case beginning January 1, 2011.

806.2 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Atherton 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 Commander. The Commander should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Commander should forward the petition to the Investigations Supervisor and the Town Attorney for review. After such review and consultation with the Town Attorney, the Investigations Supervisor and the Commander shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Commander 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 Commander 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.

806.3 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The 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 California DOJ is notified.

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Records Center

806.4 FILE ACCESS AND SECURITY

The security of files in the Records Center must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a police department case, including field interview (FI) cards, criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Records Center, accessible only by authorized members of the Records Center. Access to case reports or files when Records Center staff is not available may be obtained through the Watch Commander.

The Records Center will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

806.5 CONFIDENTIALITY

Records Center staff has access to information that may be confidential or sensitive in nature. Records Center 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 Center procedure manual.

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Code Enforcement Safety

807.1 PURPOSE AND SCOPE

Senate Bill ("SB") 296 established Penal Code Section 829.7, which requires each local jurisdiction that employs a Code Enforcement Officer to evaluate the risks, threats and hazards applicable to their Code Enforcement Officer(s) and develop appropriate safety standards. The following are guidelines approved by the California Association of Code Enforcement Officers (CACEO) and intended to serve as an example of a jurisdiction's implementation of Code Enforcement Officer safety standards to comply with SB 296, which went into effect January 1, 2022. In addition, the CACEO-approved Guiding Principles should be consulted by each jurisdiction in evaluating specific risks and appropriate safety standards for its Code Enforcement Officers to comply with SB 296. As the risks, threats and hazards to Code Enforcement Officers evolve, it may be necessary for local jurisdictions to amend their adopted safety standards to remain in compliance with SB 296.

807.2 CODE ENFORCEMENT OFFICER SAFETY

The safety and welfare of our personnel is extremely important and a high priority for department management and supervision. Code Enforcement Officers (CEO's) are expected to act in a professional manner when dealing with the public; however, if they are dealing with hostile individuals, officers are expected to, and shall avoid confrontation and remove themselves from the situation as quickly and safely as possible.

Many potential officer safety issues can be avoided by following proper investigative techniques:

- Reviewing prior cases to determine any potential safety hazards or potential hostile individuals.
- Becoming familiar with the geographical area of the complaint, prior to initial contact.
- Speaking with officers who investigated previous complaints.
- Having additional resources available, such as a law enforcement officer, a supervisor, building official or other community development personnel, when warranted.

Supervisors shall be made aware of all potentially harmful situations, prior to any initial contact, to develop strategies to best address those hazards.

807.3 THREATS, ASSAULTS, AND BATTERIES

All threats, assaults and batteries directed at Code Enforcement Officers, shall be reported to supervision, management, and law enforcement immediately. Officers shall obtain information as safely as possible about the subject making the threat, assault, or battery, including their intent, ability, and desire to carry out their actions. This information will be vital for law enforcement and Code Enforcement supervisors.

Code Enforcement and Police Departments are expected to, and shall share information regarding known and potentially dangerous occupant(s) of properties under investigation by code enforcement and take necessary steps to mitigate the risk of harm to the inspectors. These steps

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include, but are not limited to, obtaining assistance from law enforcement in making all contacts with such individual(s), CEO's reporting their location prior to making contact and after completing the inspection or other contact, and adhering to safety standards, training, and protocols.

807.4 USE OF FORCE

Code Enforcement Officers shall always exercise good judgment if force is necessary for self-protection from harm. The ability to leave the location prior to any confrontation taking place is the best course of action. Code Enforcement Officers shall utilize the least amount of force necessary to mitigate the threat and safely leave the area.

Mere verbal threats of violence, verbal abuse, or hesitancy in following commands shall not necessarily justify the use of physical force without additional facts or circumstances substantiating an imminent potential for physical harm. However, if a Code Enforcement Officer is receiving threats, particularly threats of violence even without additional manifestations of intent to carry it out, the Code Enforcement Officer should immediately retreat to a safe location and notify the law enforcement and a code enforcement supervisor.

807.5 GENERAL SAFETY

807.5.1 SELF- DEFENSE

Code Enforcement Officers have two defense options:

1. Leave the scene (walk, run, crawl, drive, etc.) and call for help.

2. If a Code Enforcement Officer cannot leave the scene, such as being cornered or held, they may defend themselves until they are able to leave the scene or assistance arrives. Code Enforcement Officers may use defensive tactics skills, as well as issued equipment, provided that such use is reasonable and not excessive to defend against an attack.

   Unreasonable application of physical force on a person is a violation of law, which may result in criminal prosecution of the Code Enforcement Officer and potential civil liability to the Code Enforcement Officer and their agency.

807.5.2 PRIORITIES

1. A Code Enforcement Officer's safety is priority. An officer cannot help others if hurt or incapacitated, and if the officer is injured, this compounds the original problem.

2. The safety of others is the next priority. Assistance should come from other department employees, or emergency service agencies, including the Police Department.

807.5.3 ALERTNESS

A crucial part of officer safety is staying alert and anticipating potential risks. This requires the use of all senses to observe the surroundings, hear a threat, speak persuasively, or feel that an attack is imminent. Being alert applies not only in the field, but also at the office.

- Pay attention to individuals who come to the office. Making eye contact and greeting them tells them that they have been noticed and acknowledged.

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- Watch for unusual circumstances and check in with them. If you find someone in a restricted area, inform them that the area is not open to the public, guide them to a public area of the building, and offer of assistance. If you find a strange package in an unusual place notify a supervisor and do not touch it until it can be confirmed to be harmless.
- Plan an escape route. This includes emergency escape routes as outlined in your agency's emergency action plan, and potential escape routes when in the field. Every time contact is made, consider what options are available if something goes wrong. This is extremely important when dealing with hostile people.
- Know the location of visits and inspections. If immediate help is necessary, it may not be possible to review a map for directions.
- When talking to individuals, try to maintain at least an arm's-length of distance and a bladed, balanced stance on firm ground to be able to dodge a sudden lunge, punch, or kick. A bladed stance is when one foot is in front of the other and the body is at an angle to the individual in front of the officer.
- Avoid standing downhill, facing the sun, or at the edge of something that could lead to a trip and fall.
- Be aware of nearby objects that could be used as weapons by a hostile individual, such as garden tools, screwdrivers, knives, 2x4s, pipes, etc. Guide the individual towards a more neutral area. If it is not possible to move to another area of the property, move objects out of reach.

The decision to use physical force places a tremendous responsibility on Code Enforcement Officers. Code Enforcement Officers should clearly understand that the standard for determining whether the force applied is that conduct which a reasonable Code Enforcement Officer would exercise based upon the information the officer had when the conduct occurred. Whenever possible, the best course of action is to leave the area, find a safe location and call for assistance.

807.6 REPORTING

Code Enforcement Officers are required to immediately report all officer safety issues to a supervisor. This includes any force used in self-defense, verbal altercations, or incidents where a police officer had to arrest a party. After notification, the Code Enforcement Officer will also submit a written report of the incident to a supervisor.

807.7 USE OF RADIO/CELL PHONE COMMUNICATIONS

Code Enforcement Officers are required to advise dispatch or supervisor of where they generally will be during a shift. Officers shall keep their electronic calendar up to date.

All Code Enforcement Officers will be assigned a radio and call sign.

The Dispatch call sign is "C3".

Code Enforcement Officers will limit their use of the radio to only essential information to ensure the channel remains open for priority traffic. Basic 10-Codes Used by Code Enforcement (not inclusive):

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- 10-4 Message Received/Copy
- 10-7 Out of service
- 10-8 In service
- 10-9 Repeat
- 10-19 Return/En Route Station
- 10-20 Location
- 10-21 Telephone
- 10-22 Cancel
- 10-23 Standby
- 10-62 Meet the Citizen
- 10-97 Arrived on Scene

807.8 MISSING OFFICER

If a Code Enforcement Officer fails to promptly respond to phone calls or radio communication, the standard response protocols will be implemented to locate the CEO officer and ensure their safety.

807.9 SERVICE OF INSPECTION AND/OR ABATEMENT WARRANTS

Code Enforcement Officers may need to obtain inspection and/or abatement warrants from time to time. Prior to serving or executing such warrant(s), the Code Enforcement Officer shall notify their supervisor and coordinate with the Police Department to ensure a police officer is present at the service or execution of the warrant(s). The officer shall coordinate with law enforcement present on how to contact the occupant(s) and the best method for entry. Forcible entry shall not be used unless a judge has authorized it in the warrant(s). Code Enforcement Officers shall not serve or execute an inspection warrant without the presence of law enforcement and the Code Enforcement Officer shall report their position to dispatch when arriving and leaving the location subject to the warrant(s).

807.10 PROTECTIVE EQUIPMENT

807.10.1 ENVIRONMENTAL

Code Enforcement Officers may encounter environmental conditions which may be hazardous, such as mold, asbestos, insect infestation, feces, and airborne contaminants. As such, each Code Enforcement Officer will be provided with an emergency medical kit and personal protective equipment. Based on the known or reasonably anticipated situation, each officer is required to wear or utilize the most appropriate equipment when entering hazardous areas. The protective equipment should be always worn until the Code Enforcement Officer believes hazardous conditions have been abated or when the officer has left the hazardous area or property. Below is a list of essential equipment provided to each officer. Each officer is responsible for periodic inspection and inventory of stated equipment. If an officer finds equipment to be defective or

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requires replacement, please notify a supervisor immediately. Listed below is Agency-provided personal protective equipment:

1. Respiratory protective gear-particulate mask, respirator etc.
2. Blood-borne pathogen kit- including disposable gloves and hand sanitizer
3. Potable water
4. Basic first aid kit
5. ANSI approved eye protection
6. ANSI approved head protection
7. Tyvek suit or other overalls
8. Leather or work gloves
9. CPR shield or mask
11. Insect repellent
10. Sunblock (if exposure exists)

807.10.2 UNIFORM
Code Enforcement Officers are equipped with department issued equipment for their safety. Listed below is suggested Agency- provided safety equipment and tools:

1. Cell Phone
2. Radio
3. Body Camera
4. LED Rechargeable flashlight
5. Digital Camera
6. Tactical vest
7. Pepper Spray or Dog Spray
8. Steel-toe boots

807.11 LICENSE PLATE CONFIDENTIALITY

A Code Enforcement Officer shall not utilize their personal vehicle in the performance of job duties if an agency-provided vehicle is available for the Code Enforcement Officer's use. If a Code Enforcement Officer must use a personal vehicle, the Code Enforcement Officer is encouraged to apply for license plate confidentiality under Vehicle Code section 1808.4(a)(19) or other applicable law. If a Code Enforcement Officer's personal vehicle is not parked in a location secured against public access, and in other situations deemed necessary, the Code Enforcement Officer is encouraged to apply for license plate confidentiality. If the Code Enforcement Officer is engaged in enforcing the Vehicle Code or municipal ordinances related to parking, the Code

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Enforcement Officer is encouraged to apply for license plate confidentiality under Vehicle Code Section 1808.4(a) (19) or other applicable law. The agency shall assist the Code Enforcement Officer in completing and obtaining approval of such application as is necessary and appropriate.

807.12 TRAINING

Continual training is essential for Code Enforcement staff to maintain the skills required for their individual positions. All Code Enforcement staff shall receive initial training essential to perform their duties. This will be on-the-job training provided by supervisors and experienced Code Enforcement Officers.

All Code Enforcement Officers are required to successfully complete the 832 PC course as prescribed by the Commission on Peace Officer Standards and Training (POST) prior to exercising the powers of a peace officer. The initial 40-hour course shall be completed within one year of their date of hire as a code enforcement officer.

The department will require Code Enforcement Officers to attend training opportunities provided by the California Association of Code Enforcement Officers (CACEO) and American Association of Code Enforcement (AACE) and become Certified Code Enforcement Officers. Once certified, officers must attend continuing education courses to maintain their certification.

In addition to CACEO training, Code Enforcement Departments will provide Code Enforcement Officers with Cal/OSHA required and best risk management practices training, applicable to agency's exposures. Training may include, but not limited to: Hazard communication, bloodborne pathogens, hearing conservation, heat stress, respiratory protection, fire extinguisher safety, CPR/AED/First Aid Safety, tactical communication, traffic control/flagging, pepper spray defense, self-defense, driver safety, constitutional rights, and requirements, etc.

807.13 RECORD KEEPING

It is essential that the agency document and maintain Code Enforcement staff training records, including copies of all outside training and certifications the officer receives in their personnel file.

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Restoration of Firearm Serial Numbers

807.1 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.

807.2 PROCEDURE

Any firearm coming into the possession of the Atherton Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated, will be processed in the following manner:

807.2.1 PRELIMINARY FIREARM EXAMINATION

(a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.

(b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.

(c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.

(d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

807.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated. The employee booking the firearm must also write "FIREARM" on the exterior of the packaging material.

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Restoration of Firearm Serial Numbers

807.2.3 OFFICER RESPONSIBILITY
The Property Officer receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration. The Property Officer must also ensure the Chain of Custody is maintained.

807.2.4 DOCUMENTATION
Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

807.2.5 FIREARM TRACE
After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property Officer will complete a Bureau of Alcohol, Tobacco, and Firearms (ATF) NTC Obliterated Serial Number Trace Request Form (ATC 3312.1-OBL) and forward the form to the National Tracing Center in Falling Waters, West Virginia.

807.3 BULLET AND CASING IDENTIFICATION
Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

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Protected Information

810.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Atherton Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

810.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Atherton 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.

810.2 POLICY

Members of the Atherton Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

810.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

(a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).

(b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.

(c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.

(d) Developing procedures to ensure training and certification requirements are met.

(e) Resolving specific questions that arise regarding authorized recipients of protected information.

(f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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810.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Atherton Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

810.4.1 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).

810.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Records Supervisor for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department 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 Center to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

810.5.1 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).

810.5.2 TRANSMISSION GUIDELINES

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio. When circumstances reasonably indicate that the immediate safety of officers, other department members, or the public is at risk, only summary information may be transmitted.

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In cases where the transmission of protected information, such as Personally Identifiable Information, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, a MDT or department-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.

810.6 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.

(d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

810.6.1 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).

810.7 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.

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Protected Information

810.7.1 LEGAL REQUIREMENTS

The training of Department personnel authorized to access Criminal Offender Record Information and the handling of CORI shall be in accordance with the following legal requirements:

(a) Automated systems handling criminal offender record information and the information derived there from shall be secure from unauthorized access, alteration, deletion or release. The computer system and terminals shall be located in secure premises.

(b) All personnel who have access to the computer system, its terminals or the stored criminal offender record information shall have a fingerprint background check completed through the California Department of Justice.

(c) All personnel who have access to CORI will sign an "Employment Statement Form" acknowledging an understanding of the laws prohibiting the misuse of CORI. They will be trained in the secure handling, storage, dissemination and destruction of CORI.

(d) A case or incident number must be obtained, or an existing case number must be utilized, for any CORI request.

(e) Access to CORI will be made only through the CAD/RMS system.

(f) The mandatory "Route To" (RTE) field must be completed on all inquiries. This field contains up to 30 characters and must indicate the following: the name, initials or ID of the officer making the inquiry, and the specific reason for the request. Generic terms such as "Investigation," "Inquiry," or "Traffic Stop" are unacceptable for use as a reason for accessing the information. Providing the associated case or incident number is the best way to satisfy this requirement.

(g) A record of each release of CORI from the automated system shall be kept and be available for inspection for a period of not less than three years from the date of release.

(h) CORI shall be used only for the purpose for which it was requested and may not be reproduced for secondary dissemination.

(i) State summary of CORI obtained for background investigations for employment with the Atherton Police Department shall be maintained according to P.O.S.T. guidelines. A "No Longer Interested Notification" form shall be completed if the applicant is not hired and whenever an employee or volunteer separates from the Department.

(j) CORI obtained for the purpose of conducting a background check on applicants for taxi cab driver, tow truck driver or other license, permit or certification required by the Town shall be destroyed upon the granting of the permit, license or certification. If the permit, license of certification is denied, CORI may be retained for an additional thirty (30) days before destruction.

(k) The method of destruction for all CORI shall be shredding.

(l) Misuse of CORI is a criminal offense and may result in criminal or civil prosecution and/or administrative action by the California Department of Justice.

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Protected Information

810.8 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

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Animal Control

818.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and responding to calls for service that involve animals.

818.2 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation to determine the appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding members generally should not attempt to capture or pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

(a) There is a threat to public safety.

(b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury.

(c) An animal is creating a traffic hazard.

(d) An animal is seriously injured.

(e) The owner/handler of an animal has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.

1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

818.3 INJURED ANIMALS

When a member becomes aware of an injured domesticated animal, all reasonable attempts should be made to contact an owner or responsible handler. If an owner or responsible handler cannot be located, the animal should be taken to a veterinarian and notice shall be given to the owner pursuant to the requirements of Penal Code § 597.1.

818.3.1 VETERINARY CARE

The injured animal should be taken to a veterinarian as follows:

(a) During normal business hours, the animal should be taken to an authorized veterinary care clinic.

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(b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic.

(c) An exception to the above exists when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.

Each incident shall be documented and, at minimum, include the name of the reporting party and veterinary hospital and/or person to whom the animal is released.

If Animal Control is not available, the information will be forwarded for follow-up.

818.3.2 INJURED WILDLIFE

Injured wildlife should be referred to the Department of Fish and Wildlife or the Marine Mammal Center as applicable.

818.3.3 RESCUE OF ANIMALS IN VEHICLES

If an animal left unattended in a vehicle appears to be in distress, members may enter the vehicle for the purpose of rescuing the animal. Members should (Penal Code § 597.7(d)):

(a) Make a reasonable effort to locate the owner before entering the vehicle.

(b) Take steps to minimize damage to the vehicle.

(c) Refrain from searching the vehicle or seizing items except as otherwise permitted by law.

(d) Leave notice on or in the vehicle identifying the location where the animal has been taken and the name and Department of the member involved in the rescue.

(e) Make reasonable efforts to contact the owner or secure the vehicle before leaving the scene.

(f) Take the animal to an animal care facility, a place of safekeeping or, if necessary, a veterinary hospital for treatment.

818.4 POLICY

It is the policy of the Atherton Police Department to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

818.5 ANIMAL CRUELTY COMPLAINTS

Laws relating to the cruelty to animals should be enforced, including but not limited to Penal Code § 597 et seq. (cruelty to animals, failure to care for animals).

(a) An investigation should be conducted on all reports of animal cruelty.

(b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty.

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Animal Control

818.6 ANIMAL BITE REPORTS

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

818.7 STRAY DOGS

If a stray dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it should be transported to the Department. Once at the Department, Animal Control shall be notified to retrieve the dog if the owner cannot be contacted or located.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

818.8 DANGEROUS ANIMALS

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Watch Commander will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

818.9 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Members should diligently address calls related to nuisance animals (e.g., barking dogs), as such calls may involve significant quality-of-life issues.

818.10 DESTRUCTION OF ANIMALS

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed. A badly injured animal shall only be euthanized with the approval of a supervisor.

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Jeanne Clery Campus Security Act

820.1 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.

820.2 POLICY

The Atherton 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 Atherton 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 Atherton Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Atherton 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.

820.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

(a) Ensure that the Atherton 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 by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).

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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 Atherton 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 Atherton 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).

820.3.1 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.

2. Victim-centered protocols including privacy protection, responses to reports, interviews, investigations, required notifications and participation by victim advocates and other supporting individuals.

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(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 Atherton 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 Atherton 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 Atherton Police Department, the institution must immediately inform the victim of that disclosure (Education Code § 67380).

820.4 RECORDS COLLECTION AND RETENTION

The Commander is responsible for maintaining Atherton 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 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
6. Motor vehicle theft
7. Manslaughter
8. Arson

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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 Atherton 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)).

820.4.1 CRIME LOG

Shift Supervisors are responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4); 34 CFR 668.46(f)):

(a) The daily crime log will record all crimes reported to the Atherton 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.

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(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.

820.4.2 COMPILING RECORDS FOR DISCLOSURE REQUIREMENTS

The Commander is 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 Atherton 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 Atherton Police Department for which a written report is prepared.

820.5 INFORMATION DISSEMINATION

It is the responsibility of the 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. 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.

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Jeanne Clery Campus Security Act

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.

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Chapter 9 - Custody

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Custodial Searches

900.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Atherton Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of the individual's property, shoes, and clothing, including pockets, cuffs, and folds on the clothing, to remove all weapons, dangerous items, and contraband.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach, rectal cavity, or vagina of an individual.

Strip search - A search that requires an individual to remove or rearrange some or all of the individual's clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus, or outer genitalia. This includes monitoring an individual who is changing clothes, where the individual's underclothing, buttocks, genitalia, or female breasts are visible.

900.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

900.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after the individual's arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

900.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Atherton Police Department facilities. Except in exigent circumstances, the search should be conducted by

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a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

900.4.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's Atherton Police Department identification number and information regarding how and when the property may be released.

900.4.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place the member's initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

900.5 STRIP SEARCHES

No individual in temporary custody at any Atherton Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

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(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).

(d) The individual's actions or demeanor.

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

900.5.1 STRIP SEARCH PROCEDURES

Strip searches at Atherton Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

(a) Written authorization from the Watch Commander shall be obtained prior to the strip search.

(b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.

(c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.

(d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.

(e) Members conducting a strip search shall not touch the breasts, buttocks, or genitalia of the individual being searched.

(f) The primary member conducting the search shall prepare a written report to include:

1. The facts that led to the decision to perform a strip search.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The written authorization for the search, obtained from the Watch Commander.
4. The name of the individual who was searched.
5. The name and sex of the members who conducted the search.
6. The name, sex, and role of any person present during the search.
7. The time and date of the search.

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8. The place at which the search was conducted.
9. A list of the items, if any, that were recovered.
10. The facts upon which the member based the member's belief that the individual was concealing a weapon or contraband.

(g) No member should view an individual's private underclothing, buttocks, genitalia, or breasts while that individual is showering, performing bodily functions, or changing clothes, unless the individual would otherwise qualify for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect the individual's privacy and dignity.

(h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

(i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name, and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

900.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

(a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.

(b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

900.6 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

(a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

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(b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.

(c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.

(d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.

(e) All such searches shall be documented, including:

1. The facts that led to the decision to perform a physical body cavity search of the individual.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The Watch Commander's approval.
4. A copy of the search warrant.
5. The time, date and location of the search.
6. The medical personnel present.
7. The names, sex and roles of any department members present.
8. Any contraband or weapons discovered by the search.

(f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

900.7 TRAINING

The Training Manager shall ensure members have training that includes (28 CFR 115.115):

(a) Conducting searches of cross-gender individuals.

(b) Conducting searches of transgender and intersex individuals.

(c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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Custodial Searches

900.8 BODY SCANNER SEARCH

If a body scanner is available, a body scan search should be performed on all persons in custody upon entering the secure booking area of the facility. Members (Penal Code § 4030):

(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.

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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 Atherton Police Department and that are promulgated and maintained by the Personnel Department. The Town's Police personnel are also required to adhere to the Human Resources Policies and Procedures manual. Where there is a discrepancy between the two manuals, the Human Resources policy and procedure manual will supersede the Lexipol manual based on the discretion of the City Manager.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Atherton Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 RECRUITMENT

The Commander 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 Commander shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

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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.

1000.4 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department 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)

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

1000.4.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of

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the candidate's unsuitability to perform duties relevant to the operation of the Atherton Police Department (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.5.2 STATE NOTICES

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

1000.5.3 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the Commander shall not require candidates to provide passwords, account information or access to password-protected social media accounts (Labor Code § 980).

The Commander should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, Internet-based searches and/or review information from social media sites to ensure that:

(a) The legal rights of candidates are protected.

(b) Material and information to be considered are verified, accurate and validated.

(c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, the Commander should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.4 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall 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).

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The background investigator shall document proof of verification of qualification for peace officer appointment on the Verification of Qualification for Peace Officer Appointment form and forward to the Administration Commander for final review and submission to POST (11 CCR 1953).

1000.5.5 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).

1000.5.6 BACKGROUND INVESTIGATION UPDATE
A background investigation update may, at the discretion of the Chief of Police, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Atherton Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

1000.5.7 INVESTIGATOR TRAINING
Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

1000.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California

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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 Town should maintain validated standards for all positions.

1000.7.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST or required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

(a) Free of any felony convictions

(b) Be legally authorized to work in the United States under federal law

(c) At least 21 years of age except as provided by Government Code § 1031.4

(d) Fingerprinted for local, state, and national fingerprint check

(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 (Penal Code § 13510(d)).

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1000.7.2 STANDARDS FOR DISPATCHERS
Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):

(a) A verbal, reasoning, memory and perceptual abilities assessment (11 CCR 1957)

(b) An oral communication assessment (11 CCR 1958)

(c) A medical evaluation (11 CCR 1960)

1000.8 PROBATIONARY PERIODS

The Commander should coordinate with the Atherton Personnel Department to identify positions subject to probationary periods and procedures for:

(a) Appraising performance during probation.

(b) Assessing the level of performance required to complete probation.

(c) Extending probation.

(d) Documenting successful or unsuccessful completion of probation.

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Evaluation of Employees

1002.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

1002.2 POLICY

The Atherton Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion, and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1002.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and non-sworn supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

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1002.3.1 RESERVE OFFICER EVALUATIONS
Reserve officer evaluations are covered under the Reserve Officers Policy.

1002.4 FULL TIME PROBATIONARY PERSONNEL

Non-sworn personnel are on probation for 18 months before being eligible for certification as permanent employees.

Sworn personnel are on probation for 18 months before being eligible for certification as permanent employees. Probationary officers are evaluated during the probationary period.

1002.4.1 PROBATIONARY EMPLOYEE EVALUATIONS
The probationary employee's first line supervisor will meet with the probationary employee every two (2) months to discuss job performance, deficiencies (if any), accomplishments, and to reinforce job expectations and performance standards. This meeting is an opportunity to provide constructive feedback to the employee, listen to the employee's concerns, and document any performance deficiencies.

Additionally, every six (6) months, the probationary employee's first line supervisor will complete a mid-year review of the employee's progress.

1002.5 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to three types of performance evaluations:

Regular - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor on the anniversary of the employee’s date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee’s date of last promotion.

Transfer - If an employee is transferred from one assignment to another in the middle of an evaluation period and less than six months have transpired since the transfer, then an evaluation shall be completed by the current supervisor with input from the previous supervisor.

Special - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

1002.5.1 RATINGS
When completing the Employee Performance Evaluation, the rater will list one of the following in the "Rating Column" that best describes the employee's performance. The definition of each rating category is as follows:

OS: Outstanding; consistently exceeds standard on attached worksheets.

MS: Meets standard on attached worksheets.

SS: Below standard on attached worksheets.

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NA: Does not apply to this assignment

Space for written comments is provided throughout the performance evaluation in the "Performance Delivered (Facts)" column. There is a page at the end of the performance evaluation to include steps to recognize exceptional work or to correct sub-standard work. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked **OS** (Outstanding) or **SS** (Below Standard) shall be substantiated in the "Performance Delivered (Facts)" column.

1002.6 EVALUATION INTERVIEW

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation. Permanent employees may also write comments in the Employee Comments section of the performance evaluation report.

1002.7 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor (Commander). The Commander shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Commander shall evaluate the supervisor on the quality of ratings given.

1002.8 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief of Police for the tenure of the employee's employment. A copy of the performance evaluation will be provided to the employee.

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Promotional and Transfer Policy

1003.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion within the ranks of the Atherton Police Department, or for transfer of assignment to a specialty position for both sworn and non-sworn personnel.

1003.1.1 GENERAL REQUIREMENTS

The following conditions will be used in evaluating employees for promotion and transfer:

(a) Present a professional, neat appearance.

(b) Maintain a physical condition which aids in their performance.

(c) Demonstrate the following traits:

1. Emotional stability and maturity
2. Stress tolerance
3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership
6. Initiative
7. Adaptability and flexibility
8. Ability to conform to organizational goals and objectives in a positive manner

1003.2 COMMANDER SELECTION PROCESS

1003.2.1 DESIRABLE QUALIFICATIONS

All applicants should possess the following qualifications:

(a) Four years of supervisory experience.

(b) Off probation, unless there is an emergency staffing situation or operational need. Probationary employees are not eligible for promotion.

(c) Has shown an expressed interest in the Commander position.

(d) Bachelor’s degree or higher is recommended.

(e) Education, training, experience, and demonstrated abilities in related areas:

1. Administration
2. Command
3. Patrol and enforcement operations
4. Investigation operations
5. Research and development

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6. Staff paper and report writing
7. Community policing
8. Media and public relations

(f) Complete any training required by POST or law.

1003.3 SERGEANT SELECTION PROCESS

1003.3.1 DESIRABLE QUALIFICATIONS

(a) Four years of law enforcement experience.

(b) Off probation, unless there is an emergency staffing situation or operational need. Probationary employees are not eligible for promotion.

(c) Has shown an expressed interest in the Sergeant position.

(d) Associates degree or higher is recommended.

(e) Education, training, experience, and demonstrated abilities in related areas:

1. Supervision
2. Enforcement activities
3. Investigative techniques
4. Report writing
5. Community policing
6. Public relations

(f) Complete any training required by POST or law.

1003.4 PROMOTIONAL ELIGIBILITY LISTS

The promotional process shall be in accordance with the Atherton Human Resources Policies and Procedures Guidelines and the Department's Lexipol Manual.

As soon as possible, after eligibility assessment of the candidate's qualifications, the Commander shall prepare a list consisting of the names of persons that have successfully passed the performance, written and/or oral examination and arrange in order of final standing relative to the other applicants. The eligibility list will become effective upon review and approval by the Human Resources Department. The promotional list shall remain in effect for twelve (12) months and may be extended by the Chief of Police. In no event shall the promotional list remain in effect for more than two (2) years.

The Chief of Police will employ the "rule of three" in selecting the candidate from the promotional list. The "rule of three" will allow the Chief to choose applicants for promotion from the top three scores of an eligible list.

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1003.5 SPECIALTY POSITION SELECTION PROCESS FOR SWORN SUPERVISORY, SWORN NON-SUPERVISORY, AND NON-SWORN POSITIONS

The following positions are considered transfers and are not considered promotions:

(a) Detective Sergeant

(b) Detective

(c) Motor Officer

(d) Field Training Officer

(e) School Resource Officer

(f) Canine Officer

(g) 5th Dispatcher

1003.5.1 DESIRABLE QUALIFICATIONS

(a) Two years experience.

(b) Off probation.

(c) Has shown an expressed interest in the position applied for.

(d) Education, training and demonstrated abilities in related areas:

1. Enforcement activities
2. Investigative techniques
3. Report writing
4. Public relations

(e) Complete any training required by POST or law.

1003.6 SELECTION PROCESS

The following criteria apply to transfer position selections:

(a) The Chief may obtain input from all the supervisors in the Department to give information about the candidate.

(b) Administrative evaluation will be conducted as determined by the Chief of Police. This may include a review of supervisor recommendations. Each supervisor who has supervised or otherwise been involved with the candidate may submit these recommendations.

(c) The supervisor recommendations will be submitted to the Commander for whom the candidate will work. The Commander will schedule interviews with each candidate.

(d) Based on supervisor recommendations and those of the Commander after the interview, the Commander will submit his/her recommendation(s) to the Chief of Police.

(e) Appointment by the Chief of Police.

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Promotional and Transfer Policy

1. The appointment period for the Detective Sergeant position shall be for 3 years, with an option for a 1 year extension, for a maximum assignment of 4 years.
2. The appointment period for the Detective position shall be for 3 years, with an option for a 1 year extension, for a maximum assignment of 4 years.
3. The appointment period for the Motor Officer position shall be for 3 years, with an option for a 1 year extension, for a maximum assignment of 4 years.
4. The appointment period for the Field Training Officer position shall be indefinite and based on operational need.
5. The appointment period for the School Resource Officer shall be for 2 years, with an option for a 1 year extension, for a maximum assignment of 3 years.
6. The appointment period for the Canine Officer shall be for 5 years, with an option for a 1 year extension (after review of the K9's age and performance abilities), for a maximum assignment of 6 years.
7. The appointment period for the 5th Dispatcher shall be for 2 years, with an option for a 1 year extension, for a maximum assignment of 3 years.
8. Personnel assigned to all specialty positions are subject to removal from the assignment based on unsatisfactory job performance, or based on operational need.
9. This policy may be waived for temporary assignments, emergency situations, training, staffing shortages, or based on other operational needs.
10. If personnel assigned to a specialty position are reassigned back to patrol or other assignment for an extended period of time, the reassignment time will be calculated into the original specialty assignment period, to ensure personnel assigned to a specialty position are allowed to serve their full specialty assignment period.

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Performance Improvement Program

1004.1 PURPOSE AND SCOPE

All employees are expected to perform in a competent manner in furtherance of the mission and objectives of the Department and in accordance with the law and the policies and procedures of the Town of Atherton and the Atherton Police Department. In furtherance of this policy, the Atherton Police Department establishes this procedure whereby substandard/unacceptable performance can be identified and an appropriate program of corrective action can be established.

The Atherton Human Resources Policies and Procedures Manual sets forth a performance management policy that police personnel must be aware of.

1004.2 PROCEDURE

The objective of this procedure is to correct the substandard/unacceptable performance, thereby restoring the employee to a level of acceptable and competent productivity. In order to accomplish this objective, this procedure is developed upon the following key criteria:

(a) Identification of the substandard/unacceptable performance/behavior,

(b) Communication of the deficiencies to the employee,

(c) Formal documentation of the deficiency and the expected change(s), and

(d) Development of the document which specifies an action plan.

1004.2.1 PERFORMANCE IMPROVEMENT PROGRAMS

Performance Improvement Programs are not intended to be disciplinary in nature and therefore will not be made a part of an employee's personnel file if the employee successfully completes the program.

(a) Failure to successfully complete the program can result in:

1. reduction in pay,
2. demotion, or
3. termination

(b) Failure to successfully complete the program will result in the inclusion of the program documentation in the employee's personnel file.

(c) Program documentation for cases involving successful completion of the program will be maintained in a separate file by the Office of the Chief until such time as it may be disposed of per current City Council Resolution for records destruction.

1004.2.2 INITIAL SUPERVISORY CORRECTIONS

(a) When minor policy infractions and/or performance deficiencies are noted for the first time, verbal counseling is the preferred method for corrective action.

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(b) When repeated policy infractions and/or performance deficiencies are noted, formal counseling sessions should be initiated. Such counseling sessions should be documented on either a Supervisor's Report or counseling memo.

1. The counseling session should address each policy infraction and/or performance deficiency which has been identified and the expected corrective action by the employee for each one.
2. The documentation of the counseling session should list each policy infraction and/or performance deficiency along with the expected corrective action.

(c) Should formal counseling fail to correct the performance deficiency and/or ensure compliance with policy, a Performance Improvement Program shall be implemented.

1004.3 PERFORMANCE IMPROVEMENT PROGRAM

(a) In the Performance Improvement Plan process, the supervisor:

1. Prepares a draft Performance Improvement Plan (P.I.P.)
2. Forwards the draft P.I.P. to his/her supervisor for approval.
3. The draft P.I.P. will then be forwarded through the chain-of-command to the Chief of Police for approval.

(b) Once it is approved:

1. The supervisor discusses the draft P.I.P. with the employee, and
2. Prepares the final version of the P.I.P.
3. The supervisor completes the final progress report and forwards the completed file to the Commander for review and approval.

(c) Should punitive action be necessary, such action will be implemented in accordance with the normal personnel disciplinary procedures.

1004.3.1 PERFORMANCE IMPROVEMENT PLAN

(a) Standard memo headings shall be used:

1. TO: (Name of the affected employee)
2. FROM: (Name of the employee's supervisor)
3. DATE: (The date the plan is being given to the employee)
4. SUBJECT: FAILURE TO MEET PERFORMANCE STANDARDS

(b) Performance Standards and How You Failed to Meet Them:

1. List each performance standard in which the employee is deficient.

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2. Example: "An employee shall be punctual in reporting for duty at the time and place specified by his superior."

3. List specifically and with detail each occasion where the employee failed to meet the listed standard.

4. Repeat this process for each standard.

(c) How to Improve Your Performance:

1. This section is a summary of the positive behavior the supervisor expects the employee to exhibit in order to be regarded as an acceptable employee.

(d) Supervisory Assistance/Guidance:

1. The supervisor sets a review schedule where the supervisor will review the progress of the employee with him/her. Such reviews will be done either weekly, bi-weekly, or monthly.

2. The supervisor may direct the employee to obtain training and/or counseling when appropriate.

(e) Time Frame and Consequences:

1. The supervisor will set the duration of the Performance Improvement Program. Normally, the Performance Improvement Program will be 90 days in length. The minimum specified time for such a program is 60 days, and the maximum time is 120 days.

(a) Should the employee progress at an accelerated rate, the Performance Improvement Program may be shortened from the specified time.

(b) The consequences of failing to satisfactorily complete the Performance Improvement Program must be clearly stated. In most situations, the consequences can be termination for failure to meet the specified performance standards within the allotted time. When appropriate, demotion and reduction in my can be administered.

1004.3.2 SUPERVISOR/EMPLOYEE REVIEWS

(a) The supervisor will address each performance deficiency identified in the Performance Improvement Plan, along with the expected corrective behavior.

1. The supervisor should emphasize the objectives of the Performance Improvement Plan process (1005.2).

2. The supervisor should advise the employee of the intent of the supervisor to assist the employee in his/her improvement.

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3. The supervisor should encourage employee input and take appropriate notes concerning the employee's viewpoints. This information may be incorporated into the Performance Improvement Plan.
4. The supervisor will advise the employee of the review process and the schedule for the review sessions.
5. The supervisor will inform the employee of any outside training and/or counseling that is required as part of the Performance Improvement Program.
6. The supervisor will inform the employee of the consequences that can result in the event the employee fails to satisfactorily complete the Performance Improvement Program.

(b) Follow-Up Counseling

1. During the duration of the Performance Improvement Program:
   (a) The supervisor will meet in formal counseling sessions with the employee as specified in the Performance Improvement Plan.
   (b) The supervisor will review the employee's progress as it relates to each identified performance deficiency. Appropriate reinforcement should be given to the employee depending on whether or not the employee is improving.
2. The counseling session will be documented in a Progress Report.

(c) Final Report

(a) At the end of the Performance Improvement Program, the supervisor shall prepare a final report regarding the employee's progress in the Performance Improvement Program.

(b) When the employee successfully completes the program, the final report should reinforce the employee's improved performance and encourage continued acceptable performance.

(c) In the event the employee does not successfully complete the program, the report should:
   (a) Specify those standards the employee failed to achieve and how he/she failed to achieve those standards,
   (b) State that the supervisor is recommending that the penalty contained in the Performance Improvement Plan as a consequence for non-improvement be implemented, and
   (c) Contain a detailed account of the employee's comments regarding the final report.

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(d) The final report, along with all follow-up reports or other appropriate documentation, will be forwarded via the chain-of-command to the Chief of Police for review and appropriate action.

1004.4 PERFORMANCE IMPROVEMENT PLAN EXAMPLES

(a) The following examples have been saved to the Atherton Police Department Computer Database as a source of reference:

1. Sample of a Performance Improvement Plan
2. Sample of a P.I.P. Progress Report
3. Sample of a Final Progress Report (employee improved)
4. Sample of a Final Progress Report (employee not improved)

(b) The above items can be located on the "R" drive at:

1. R:\Things We Should All Know\Supervisor Resource
2. R:\Things We Should All Know\General Orders Manual

(c) The samples are titled "PIP Examples" and are in PDF Format.

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Grievance Procedure

1005.1 POLICY

(a) This policy is intended to establish a formal grievance procedure for members of the Atherton Police Department.

(b) The Town of Atherton has established a grievance procedure for members of the Atherton Police Officer's Association as outlined in Article VI of the Memorandum of Understanding between the Town of Atherton and the Atherton Police Officer's Association.

(c) It is the position of the Police Department that the grievance procedure outlined in the current Memorandum of Understanding be the principle policy of the Department for members desiring to file a grievance.

1005.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- Town rules and regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

1005.2 EMPLOYEE RESPONSIBILITY

(a) It shall be the responsibility of each member of the Atherton Police Department to read and become familiar with Article VI of the current Memorandum of Understanding regarding the formal grievance procedure.

(b) Members desiring to file a formal grievance must follow the approved and agreed upon sections and steps in the current Memorandum of Understanding in order to file any grievance or to appeal to any decision made during the grievance process.

(c) Failure to follow the established procedures, sections and steps in Article VI of the Memorandum of Understanding will prevent an employee from continuing his grievance with the Department and Town of Atherton.

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(d) Employees must recognize that unfamiliarity with this procedure will not prevent any time restrictions from continuing, nor will it allow an employee any grace period from filing a timely grievance.

(e) Nothing in this General Order shall preclude an employee from approaching his/her supervisor or other manager, through the chain-of-command, in an attempt to mediate a solution to a problem prior to filing a formal grievance.

1. Employees are encouraged, but not required, to attempt to resolve conflicts or grievances through informal channels prior to filing a formal grievance.

1005.3 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.

1005.4 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Administration for inclusion into a secure file for all written grievances. A second copy of the written grievance will be maintained by the City Manager’s office to monitor the grievance process.

1005.5 GRIEVANCE AUDITS

The Training Manager shall perform an annual audit of all grievances filed the previous calendar year to evaluate whether or not any policy/procedure changes or training may be appropriate to avoid future filings of grievances. The Training Manager 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 Training Manager should promptly notify the Chief of Police.

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Inter-Departmental Complaints and Suggestions

1006.1 PURPOSE

The purpose of this order is to establish a procedure for handling inter-departmental complaints, problems, and suggestions.

1006.2 GENERAL

All members of this Department are encouraged to voice their opinions regarding any complaints, problems, or suggestions which they believe will bring improvements to this Department's operating efficiency.

1006.3 PROCEDURE

(a) Personnel wishing to file a complaint, problem, or suggestion shall file a report in memorandum form. After the memorandum is completed, it should be submitted through the chain of command.

(b) The Watch Commander will review the memorandum and take the proper action if he/she has the authority to do so. If the report is for a suggestion, the Watch Commander might implement the suggestion. In any event, the Watch Commander should note the action taken on the form. If the Division Commander can only approve the form, then it shall be forwarded through proper channels listed below.

(c) If a complaint, problem, or suggestion requires the decision of a commander above the division level, the initiating individual's commander shall ensure a complete staff study is made and developed.

(d) In no event will a written response to a complaint, problem, or suggestion be delayed more than thirty (30) days after reaching the Division Commander in its entirety.

(e) When a decision is made to implement and correct, or reject a complaint, problem, or suggestion, the initiating employee shall be notified in writing of the decision, and if rejected, the employee shall be informed of the reasons behind the decision.

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Anti-Retaliation

1007.1 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.

1007.2 POLICY

The Atherton 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.

1007.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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1007.3.1 RETALIATION PROHIBITED FOR REPORTING VIOLATIONS
An officer shall not be retaliated against for reporting a suspected violation of a law or regulation of another officer to a supervisor or other person in the Department who has the authority to investigate the violation (Government Code § 7286(b)).

1007.4 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 Town Personnel Director.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1007.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.

(b) Receiving all complaints in a fair and impartial manner.

(c) Documenting the complaint and any steps taken to resolve the problem.

(d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.

(e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.

(f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.

(g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

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(h) Not interfering with or denying the right of a member to make any complaint.

(i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

1007.6 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.

1007.7 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 Sergeant for investigation pursuant to the Personnel Complaints Policy.

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1007.7.1 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).

1007.8 RECORDS RETENTION AND RELEASE

The Records Supervisor shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1007.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

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Reporting of Employee Convictions

1009.1 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.

1009.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 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.

1009.3 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 may be inherently in conflict with law enforcement duties and the public trust.

1009.4 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, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All 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 or becomes the subject of an outstanding warrant.

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Reporting of Employee Convictions

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.

1009.5 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 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.

1009.5.1 NOTIFICATION REQUIREMENTS

The Administration Commander shall submit within 10 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

The Administration Commander 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 (11 CCR 1003).

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Legal Actions Involving Department Personnel

1010.1 PURPOSE

The purpose of this order is to designate a central location for the handling of all suits, pending litigation, etc., against the Town, the Police Department or its personnel.

1010.2 POLICY

1. Record keeping and investigation of lawsuits filed against the Town or members of the Police Department are handled through the Town Attorney or the attorney of record.

(a) Department members who have been served with civil papers pertaining to lawsuits against them, relating to their employment with the Town, shall immediately forward copies to the Chief through their Division Commander.

(b) Copies of lawsuits are to be forwarded by the Chief to the Town Attorney for investigation or follow up.

(c) Information to legal agencies representing the Town or Police Department is to be released through the Chief.

(d) Requests by plaintiffs for reports or information are to be released through the Town Attorney's Office or the attorney of record.

(e) All discovery orders and motions are to be released through the Town Attorney or the attorney of record.

1010.3 TESTIFYING FOR THE DEFENDANT

Any member subpoenaed to testify for the defense in any criminal trial or hearing, or against the Town of Atherton or the Atherton Police Department in any civil or administrative hearing or trial, shall notify his/her Commanding Officer upon receipt of the subpoena. He shall also notify the District Attorney's Office in criminal actions or the City Attorney in civil actions.

1010.4 CIVIL ACTIONS

1010.4.1 ACCEPTANCE OF CIVIL SUBPOENA BY OFFICER

The employee, when served personally, shall ascertain if the subpoena is dated and signed by either the Clerk of the Court (Government Code § 68097.1) or by an attorney at law (Code of Civil Procedure § 1985). If the subpoena is not, the officer shall bring this fact to the attention of the person serving the subpoena and request that a properly issued subpoena is served.

The person serving the officer shall provide evidence that a $150.00 deposit has been tendered with the employer of the officer. If the deposit has not been made, the officer will inform the server that he will not appear in court. The officer shall, thereafter, notify his supervisor and not appear until a legal subpoena has been served.

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Legal Actions Involving Department Personnel

1010.4.2 CIVIL ACTION, COURT APPEARANCES, SUBPOENAS

Members shall not volunteer to testify, and shall not testify, unless legally subpoenaed in civil actions arising out of Departmental employment. Members shall accept all subpoenas legally served. If the subpoena arises out of Departmental employment, or if the member is served as a party to a civil action arising out of Departmental employment, he/she shall immediately notify his/her supervisor and any other party as directed by competent authority.

Members shall not enter into any financial understanding for appearances as witnesses prior to any trial, except in accordance with Departmental directives, as authorized by law (§ 1987 of the Civil Code of Procedure and §§ 68097.1 to 68097.8 of the Government Code).

1010.4.3 CIVIL DEPOSITIONS, AFFIDAVITS, AND CIVIL ACTION INTERVIEWS

Members shall confer with their Commanding Officer before giving a deposition or affidavit on a civil case that directly or indirectly affects the Department. If the Commanding Officer determines the cause is of importance to the Town of Atherton or the Atherton Police Department, he/she shall inform the Chief before the deposition or affidavit is given.

1010.4.4 CIVIL CASES

Members shall not serve civil processes unless directed to do so as a duty assignment, or without proper approval of the Chief. Members shall avoid entering into civil disputes, particularly while performing their law enforcement duties, but shall prevent or abate a breach of the peace or crime in such cases.

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Drug- and Alcohol-Free Workplace

1011.1 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).

1011.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

1011.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

1011.3.1 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 while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

1011.3.2 MEDICAL CANNABIS

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

1011.4 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).

1011.5 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 Personnel Department, 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.

1011.6 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.

1011.7 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 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.

1011.7.1 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.

1011.7.2 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.

1011.8 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).

1011.9 CONFIDENTIALITY

The Department 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.

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Sick Leave

1013.1 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 Town personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.), the California Family Rights Act, leave for victims of crime or abuse, or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

1013.1.1 SICK LEAVE DEFINED

(a) Sick leave is defined to mean absence from duty by any employee because:

1. Of his/her own illness or medical or dental examinations, or injury or exposure to contagious disease which incapacitates such employee from performing his/her duties.
2. Of illness, injury, death, or exposure to a contagious disease by the employee's spouse, child, brother, sister, parent, or spouse's parent where attendance of such employee is required.

1013.2 POLICY

It is the policy of the Atherton Police Department to provide eligible employees with a sick leave benefit.

1013.2.1 NOTIFICATION

Employees are required to notify the on-duty Dispatcher when calling in sick for a shift. At a minimum, employees shall make such notification within four (4) hours, but no less than one (1) hour, before the start of their scheduled shift. In case of an emergency, when the employee is unable to contact the Dispatcher, every effort should be made to have a representative contact the Dispatcher as soon as possible.

When the necessity for leave is foreseeable, such as an expected birth or planned medical treatment, the employee shall, whenever possible, provide the Department with no less than 30-days notice of the intent to take leave (Labor Code § 246).

1013.3 LIMITATIONS

(a) Bereavement leave absences are governed by the Memorandum of Understanding (MOU).

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(b) Pregnancy, in and of itself, shall not be grounds for granting sick leave with pay. Illness accompanying pregnancy, but not a normal condition thereof, and supported by a physician's certificate, shall be considered grounds for sick leave with pay.

(c) Employees absent on sick leave with pay for three (3) or more consecutive days may not be permitted to return to duty without a physician's certificate attesting to the employee's ability to perform normal duties.

(d) In cases of suspected sick leave misuse, the Chief of Police or designee shall advise and counsel the employee as to the nature of the suspected misuse. The employee shall be notified that a physician's certificate substantiating illness or injury may be required should the alleged misuse continue. Failure to submit or substantiate support of illness or injury may result in sick leave being denied.

1. When the abuse of sick leave is suspected, the employee may be provided with a medical questionnaire to be filed out by the employee's physician. In addition, a physician's note may be required.
2. It may be deemed necessary to enter into a written understanding with the employee that future uses of sick time, whether suspected to be an abuse or not, may require a physicians note prior to being allowed to return to work.
3. When an employee is found to have abused sick leave, disciplinary action may be taken.

1013.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider’s statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

1013.5 REQUIRED NOTICES

The Personnel Director 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.

1013.6 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

(a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.

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(b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Personnel Department as appropriate.

(c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:

1. Negatively affected the member's performance or ability to complete assigned duties.
2. Negatively affected department operations.

(d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.

(e) Referring eligible members to an available employee assistance program when appropriate.

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Communicable Diseases

1015.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

1015.1.1 INTENT

The Atherton Police Department recognizes that communicable disease exposure is an occupational health hazard. Communicable disease transmission is possible during any aspect of emergency response, prisoner handling, crime scene management, etc.

Due to the increased awareness of infectious diseases, such as HIV, TB and Hepatitis, the Atherton Police Department has adopted this Communicable Disease General Order. This General Order outlines procedures for employees to use in situations where a potential exposure to communicable disease can reasonably be anticipated. Additionally, this General Order describes preventative vaccinations, required training, equipment, and post exposure procedures.

1015.1.2 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 Atherton Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1015.2 TRAINING REQUIREMENTS

All employees will receive initial in-house training and annual updates on exposure control to satisfy POST, OSHA, and legal requirements.

CPR and First Aid training will include communicable disease awareness and training on "universal precautions."

1015.3 LEGAL

Being HIV Positive, or having Hepatitis, is considered a disability under state and federal law. All medical information is to be considered confidential. If an employee becomes aware of the information, he or she shall not relay it to others unless specifically instructed to do so by the Chief of Police. Employees are also authorized to share the information if there is an immediate and clear danger, and the sharing of information is necessary to protect others from exposure.

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Communicable Diseases

The Atherton Police Department shall not condone any form of harassment or discrimination of persons with disabilities or in high-risk groups such as homosexuals and intravenous drug users.

1015.4 POLICY

The Atherton 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.

1015.5 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 members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.

(d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).

(e) Compliance with all relevant laws or regulations related to communicable diseases, including:

1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
2. Bloodborne pathogen mandates including (8 CCR 5193):
    (a) Sharps injury log.
    (b) Needleless systems and sharps injury protection.
3. Airborne transmissible disease mandates including (8 CCR 5199):
    (a) Engineering and work practice controls related to airborne transmissible diseases.
    (b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).

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(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 members to fulfill the role when not available. The designated officer shall ensure that the name, title, and telephone number of the designated officer is posted on the Department website (Health and Safety Code § 1797.188).

(g) Coordination with the Personnel Department 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).

1015.6 EXPOSURE PREVENTION AND MITIGATION

1015.6.1 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.

(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.

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(j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1015.6.2 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).

1015.7 POST EXPOSURE

1015.7.1 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.

1015.7.2 REPORTING REQUIREMENTS
The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

(a) Name and Social Security number of the member exposed

(b) Date and time of the incident

(c) Location of the incident

(d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)

(e) Work being done during exposure

(f) How the incident occurred or was caused

(g) PPE in use at the time of the incident

(h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

1015.7.3 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:

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(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.

1015.7.4 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).

1015.7.5 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 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 Town Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

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1015.8 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.

1015.9 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.

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Infectious Disease Control Plan

1016.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for pre-shift screenings of oncoming personnel to evaluate for flu-like symptoms potentially related COVID-19, or any other similar type of infectious disease. This policy will become effective, and remain in effect, at the discretion of the Chief of Police or his/her designee.

1016.2 POLICY

In the event the San Mateo County Health Officer/Department determines for any reason that the general population is at a heightened risk of exposure to any form of viral, bacterial, or other form of infection, the Chief of Police or his/her designee will implement a pre-shift screening process for employees reporting to work. The purpose of the pre-shift screening is to ensure all employees reporting for duty are not infected, and to reduce the possibility of any infection from being spread to other employees.

Pre-shift screening will be mandatory for all members of the Department. The screening process may be self-administered or administered by a department supervisor.

In the event the civilian employee's direct supervisor is not available, the Commander or Patrol Shift Supervisor will ensure the pre-shift screening process is completed.

1016.3 DEPARTMENT PERSONNEL

Screening will take place at the beginning of each shift, regardless of whether it is a regularly scheduled shift, shift swap (full or partial), overtime shift (full or partial), or any other special assignment.

1016.4 PROCEDURE

All employees are encouraged to have their smart phone in their immediate possession when performing the mandatory pre-shift screening. This will ensure that any employee who has a temperature reading of 100.4ºF or higher has the ability to complete the pre-shift screening without entering the police building. Pre-shift screenings are located at https://tinyurl.com/APDC19 and can be accessed by: 1) Using a smart phone camera to scan the APD pre-shift screening bar code, or 2) Using a computer/smartphone to access the APD pre-shift screening website.

1016.4.1 PRE-SHIFT SCREENING

A. Employees will report to their direct supervisor, the Watch Commander, or the Patrol Shift Supervisor for pre-screening or provide notification to a supervisor that they self-administered the pre-screening process.

B. The pre-screening process will be conducted by using a department provided infrared thermometer.

C. Employees being screened will note their temperature reading by accessing the pre-shift screening document, which can be accessed by either connecting to the website

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https://tinyurl.com/APDC19, or by scanning the bar code located at the primary entrance to the PD main building, or the trailer lobby.

D. Once the QR code has been scanned, employees will click the box Open "forms.office.com" to access the APD COVID-19 Daily Wellness Check form.

E. Employees will then enter the required information where appropriate:

1. Date of the screening
2. Employee name
3. Employee number (use RIMS ID#)
4. Temperature (Employees MUST notify the Shift Supervisor for temperature readings of 100.4ºF or higher)
5. Employees will then answer the following questions on the form:
   (a) Do you have a cough?
   (b) Do you have shortness of breath?
   (c) Do you have a sore throat?
   (d) Do you have gastrointestinal symptoms?
6. Employees will then enter the name of the person who performed the screening (in most cases, these will be self-screenings).
7. Employees will click "submit" so the screening information can be transferred electronically and stored in a secure database. This information will be used ONLY by the Town's Infection Control Officer (the Commander) for purposes related to employee, workplace, and public safety.
8. Should the screened employee have a temperature below 100.4ºF, and does not have any of the symptoms listed on the form, he/she will be permitted to work his/her shift.
9. Should the screened employee have ANY of the symptoms listed on the form, that employee MUST immediately report that information to his/her direct supervisor, the Watch Commander, or the Patrol Shift Supervisor.

1016.4.2 SUPERVISOR RESPONSIBILITIES

(a) Supervisors will ensure that all oncoming personnel are properly screened before the start of their shift.

(b) Supervisors will ensure that all screened employees complete the online Daily Wellness Check form.

(c) In the event an employee is determined to have a temperature of 100.4°F or higher, supervisors will direct that employee to go home (or to one of the pre-designated hotels) for a period of at least 72 hours, or until medically cleared by a physician.

(d) The supervisor will then notify the Commander immediately.

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(e) In the event an employee answers "yes" to any of the screening questions (aside from having a temperature of 100.4°F or higher), additional follow-up conversation should be had with the employee in an attempt to determine the cause. If the cause does not appear to be related to an infectious disease, the employee will be permitted to work the shift.

(f) If the employee answers "yes" to any of the screening questions, and there is potential the cause is related to an infectious disease, checking in with the employee throughout the shift and at the end of the shift is required. If the symptoms worsen, the supervisor will direct the employee to go home (or to one of the pre-designated hotels) for a period of minimally 72 hours, or until medically cleared by a physician.

1016.4.3 ADDITIONAL TESTING

Employees who have been sent home for 72 hours are strongly encouraged to seek medical testing for infection by the employee's primary care physician or any other procedure approved by the Department.

1016.4.4 SANITIZATION

As with any piece of shared equipment, anyone using a temporal thermometer is required to sanitize the thermometer after each use.

Proper sanitization requires the use of, and of the following, disinfectant wipes, sprays, or sanitary related items:

- Disinfecting wipes (Clorox, Lysol, etc.)
- Disinfectant spray (Purell, Clorox, Lysol, etc.)
- Alcohol based handi-wipes (Sanitation Station)

1016.5 PUBLIC ORDER VIOLATIONS ENFORCEMENT

1016.5.1 PURPOSE AND SCOPE

This policy provides general guidelines for the handling of public order violations. This policy will become effective in the event the San Mateo County Health Officer/Department issues a public order in response to a health-related crisis that requires residents to shelter-in-place. Such orders may restrict the movement of individuals deemed to be non-essential workers, and may impose social-distancing requirements when people are out in public. Such orders may also limit the operation of businesses and other entities that are likewise deemed non-essential.

The San Mateo County District Attorney's Office will prosecute violations of Health Department public orders. Members of the Atherton Police Department will make every reasonable effort to follow the enforcement guidelines listed below when addressing public order violations.

1016.5.2 POLICY

The following guidelines will be followed when dealing with violations of a health-related public order:

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- First Violation: Responsible individual(s) will be contacted and identified. Officers will provide education and a warning that will be documented in a CAD incident.
- Second Violation: Responsible individual(s) will be contacted and identified. Officers will provide education and a warning that will be documented in a CAD incident with a notation that the incident was a second warning.
- Third Violation: Responsible individual(s) will be contacted and identified. Advisement will be made that a fourth violation will result in the matter being referred to the District Attorney's Office for prosecution. A formal report will be prepared documenting the details of the violation, details of the initial two warnings, and the advisement regarding future prosecution.
- Fourth Violation: Responsible individual(s) will be contacted and identified. A formal case report will be prepared and referred to the District Attorney's Office requesting prosecution for violation of section 120295 H&S. The report will contain all of the details related to the first three violations and warnings.
- Subsequent Violations / Refusal to Comply: If a case has already been referred to the District Attorney's Office for prosecution, and repeated violations and/or deliberate refusals to comply with a public order occur, officers will make every reasonable effort to resolve the situation without resorting to making a physical arrest. The on-duty supervisor will contact a Watch Commander before any further action is taken. No arrests will be made without authorization from a shift supervisor.

1016.5.3 BASIS FOR POLICE ACTION

Generally, police contacts for public order violations will be based on reports or complaints received. Under normal circumstances, officers will not conduct vehicle or pedestrian stops for the sole purpose of determining whether or not individuals are traveling within the parameters of the public order. Likewise, officers will not enter a business for the sole purpose of determining whether or not the business meets the criteria of an essential business. Any variations to this directive will be at the discretion of the Chief of Police or his/her designee.

1016.6 PERSONAL PROTECTIVE FACE MASKS

1016.6.1 PURPOSE AND SCOPE

This policy provides general guidelines for the wearing of personal protective face masks during a health-related crises in which such protection can help prevent exposure, infection, or spreading of an infectious disease.

1016.6.2 POLICY

In the event the San Mateo County Health Officer/Department declares a health-related crisis involving an infectious disease that is confirmed, or believed, to be airborne in nature, Department personnel are strongly encouraged to wear masks to help prevent exposure, infection, or spreading of such a disease. The masks will be made of a material deemed to be sufficient to prevent exposure, infection, or spreading of the disease and will be worn covering the nose and mouth. Employees may wear a mask whenever they are concerned about the potential for

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infection, but they are strongly encouraged to wear them when making personal contact with members of the public.

1016.6.3 FACEMASKS - SURGICAL/MEDICAL

Surgical masks shall be worn by all personnel when in public and when interacting with the public. Department personnel will be responsible for maintaining their masks in good working order. Masks that have any markings, writings, or graphic designs that are offensive or unprofessional will not be permitted.

1016.6.4 N95 PROTECTIVE MASKS

The N95 face mask is mandatory when interacting with any individuals who are known to be, or reasonably suspected of being, infected with an infectious disease. Depending on the duration and severity of a health-related crisis, the Department's supply of N95 masks may be limited. Department personnel are expected to maintain their N95 masks properly and in good working order, and shall request a replacement if a mask has been compromised by exposure or damage.

1016.6.5 HIGH-RISK EXPOSURE SITUATIONS

Department personnel are expected to make all reasonable efforts to avoid prolonged exposure to individuals known, or suspected, to be infected. However, due to the nature of law enforcement, there may be times when an officer has no choice about interacting with such individuals. When such encounters are unavoidable, Department personnel shall, at a minimum, don the following personal protective equipment:

(a) N95 Face Mask

(b) Latex or Nitrile Gloves

(c) Eye Protection

Additional personal protective equipment (face shields, gowns, etc.) may be worn at the employee's discretion.

In the event any Department member is exposed at a high-risk encounter, the shift supervisor will be notified immediately, and will ensure that the appropriate decontamination procedures are initiated.

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Smoking and Tobacco Use

1017.1 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 Atherton 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.

1017.2 POLICY

The Atherton 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).

1017.2.1 PROCEDURE

(a) **Smoking Prohibited**

1. Conference/meeting rooms, classrooms, auditoriums, or other enclosed places of assembly; restrooms, medical facilities, hallways, lobby, report writing room, elevator, or common area under roof, or vehicles owned by the Town of Atherton.
2. Any place posted with a conspicuous "NO SMOKING" sign.
3. An employee's regularly assigned work place when designated by the employee or the Town of Atherton as a non-smoking area.

(b) **Smoking Permitted**

1. Open work place occupied by a smoker as long as smoke does not carry into non-smoking area.
2. In any dispute arising under this policy, the rights of the non-smoker shall have precedence.

1017.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Atherton 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 Town facilities and vehicles.

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Smoking and Tobacco Use

1017.4 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.).

1017.4.1 NOTICE

The Chief of Police or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

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Personnel Complaints

1019.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Atherton Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1019.2 POLICY

The Atherton Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

The Town's Police personnel are also required to adhere to the Human Resources Policies and Procedures manual. Where there is a discrepancy between the two manuals, the Human Resources policy and procedure manual will supersede the Lexipol manual based on the discretion of the City Manager.

1019.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1019.3.1 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 Sergeant, depending on the seriousness and complexity of the investigation.

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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 Sergeant, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1019.3.2 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.

1019.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1019.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other Town facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1019.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs, or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of the complaining party's statement at the time it is filed with the Department (Penal Code § 832.7).

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1019.4.3 AVAILABILITY OF WRITTEN PROCEDURES
The Department shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

1019.4.4 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).

1019.5 DOCUMENTATION
Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief of Police or the authorized designee.

1019.6 ADMINISTRATIVE INVESTIGATIONS
Allegations of misconduct will be administratively investigated as follows.

1019.6.1 SUPERVISOR RESPONSIBILITIES
In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

(a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
    1. The original complaint form will be directed to the Watch Commander of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
    2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Commander or the Chief of Police, who will initiate appropriate action.

(b) Responding to all complainants in a courteous and professional manner.

(c) Resolving those personnel complaints that can be resolved immediately.

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1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Watch Commander.

(d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Watch Commander and theChief of Police are notified via the chain of command as soon as practicable.

(e) Promptly contacting the Town Human Resources and the Watch Commander for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

(f) Forwarding unresolved personnel complaints to the Watch Commander, who will determine whether to contact the complainant or assign the complaint for investigation.

(g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.

(h) Investigating a complaint as follows:

1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

(i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).

(j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1019.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Sergeant, 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.

(b) Unless waived by the member, interviews of an accused member shall be at the Atherton 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.

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(f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.

(g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

(h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.

(i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

(j) All members shall provide complete and truthful responses to questions posed during interviews.

(k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

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).

1019.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

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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.

1019.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of an officer were found to violate law or department policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1019.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

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1019.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS
The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1019.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member’s consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

1019.7.1 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

1019.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

(a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.

(b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.

(c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1019.9 CITIZENS COMPLAINT FORM

See Attachments.

1019.10 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.

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The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Atherton 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.

1019.11 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

1019.11.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The 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 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 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.

1019.11.2 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 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:

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(a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.

2. If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1019.11.3 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)).

1019.11.4 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)).

1019.12 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.

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(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.

1019.13 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).

1019.14 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).

1019.15 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.

1019.16 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.

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1019.17 REQUIRED REPORTING TO POST

The Chief of Police or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Penal Code § 13510.9):

(a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.

1. A POST affidavit-of-separation form shall be executed and maintained by the Department and submitted to POST as required by Penal Code § 13510.9 and 11 CCR 1003.

(b) Events that could affect an officer's POST certification, such as:

1. Complaints, charges, or allegations of 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 Atherton 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).

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Seat Belts

1021.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in department vehicles (Vehicle Code § 27315.5).

1021.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

1021.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

1021.3 TRANSPORTING PERSONS IN CUSTODY

Persons who are in custody should be in a seated position and secured in the rear seat of any department 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.

1021.4 INOPERABLE SEAT BELTS

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1021.5 POLICY

It is the policy of the Atherton Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

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Seat Belts

1021.6 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).

1021.7 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.

1021.8 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.

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Body Armor

1023.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1023.2 POLICY

It is the policy of the Atherton 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.

1023.3 ISSUANCE OF BODY ARMOR

The Commander shall ensure that body armor is issued to all officers when the officer begins service at the Atherton Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Commander 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.

- Most concealable body armor will come with a trauma plate pocket for officers to insert an aftermarket trauma plate.
- Many aftermarket trauma plates are made from different materials such as steel, aramid, polyethylene or titanium and come in various sizes to fit the trauma plate pocket.
- Trauma plates are designed to provide supplemental protection against specified handgun calibers, and to help reduce blunt force trauma should an end user be impacted by a handgun projectile.
- In addition to providing added protection against handgun threats, all VTG Special Pistol Threat Plates also provide protection against single edge and double edged blades - NIJ Standard - 0115 P1 Level 2 - Single Edged Blade & S1 - Level 3 - Double Edged Blade.

1023.3.1 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.

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(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.

(f) Trauma plates are issued to each officer and shall be worn with the body armor at all times. Each officer and Level One Reserve has been issued a trauma plate along with a specific serial number and expiration date. Should the plate be damaged, the officer must notify his or her supervisor as soon as possible.

1023.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

1023.3.3 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.

1023.4 ALTERNATE DUTY ASSIGNMENTS

Employees assigned to alternate, high-risk duty assignments (SWAT, NTF, etc.), which require the use of body armor, will be supplied with the recommended body armor by the Department.

1023.5 RANGEMASTER RESPONSIBILITIES

The Rangemaster should:

(a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.

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(b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.

(c) Provide training that educates officers about the safety benefits of wearing body armor.

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Personnel Records

1025.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1025.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

1025.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

(a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.

(b) Election of employee benefits.

(c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.

(d) Original performance evaluations. These should be permanently retained.

(e) Discipline records, including copies of sustained personnel complaints (see the Personnel Complaints Policy).

1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least four years (Government Code § 12946).
2. Disciplinary action resulting from a sustained civilian's complaint involving misconduct shall be maintained pursuant to the established records retention schedule and at least 15 years (Penal Code § 832.5).
3. A civilian's complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).

(f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment (Government Code § 3305).

1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

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3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).

(g) Commendations and awards.

(h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1025.4 DIVISION FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

1025.5 TRAINING FILE

An individual training file shall be maintained by the Training Manager for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

(a) The involved member is responsible for providing the Training Manager or immediate supervisor with evidence of completed training/education in a timely manner.

(b) The Training Manager or supervisor shall ensure that copies of such training records are placed in the member’s training file.

1025.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Training Manager 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 Training Manager's supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) Exonerated

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Investigation files arising out of sustained civilian's complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least four years (Government Code § 12946).

Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

1025.7 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.

1025.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, Town Attorney or other attorneys or representatives of the Town in connection with official business.

1025.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

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The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

1025.8.2 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 may be guilty of a misdemeanor (Penal Code § 146e).

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7).

1025.8.3 RELEASE OF LAW ENFORCEMENT GANG INFORMATION

Information relating to the termination of an officer from this department for participation in a law enforcement gang shall be disclosed to another law enforcement agency that is conducting a pre-employment background investigation except where specifically prohibited by law (Penal Code § 13670).

1025.8.4 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).

Records disclosed may be redacted as provided in Penal Code § 13683.

1025.9 MEMBERS' ACCESS TO THEIR PERSONNEL RECORDS

Any member may request access to the member's own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from the member's personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

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(a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.

(b) Confidential portions of internal affairs files that have not been sustained against the member.

(c) Criminal investigations involving the member.

(d) Letters of reference concerning employment/appointment, licensing, or issuance of permits regarding the member.

(e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.

(f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments, or other comments or ratings used for department planning purposes.

(g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

1025.10 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

(a) During the preparation of each member’s performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.

(b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.

(c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

1025.11 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.

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Personnel Records

The Custodian of Records should work as appropriate with the Chief of Police or the Sergeant supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(3):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(8) or other law, the following records (hereinafter qualifying records) shall be made available for public inspection no later than 45 days from the date of a request (Penal Code § 832.7(b)(1)):

(a) Records relating to the report, investigation, or findings of:

1. The discharge of a firearm at another person by an officer.
2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an officer.
3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
4. A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

(b) Records relating to an incident where a sustained finding was made by the Department or oversight agency regarding:

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.

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3. An officer engaged in conduct including but not limited to verbal statements, writings, online posts, recordings, and gestures involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
4. An officer made an unlawful arrest or conducted an unlawful search.

Qualifying records will be made available regardless of whether the officer resigns before the Department or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(4)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(5). However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(5)).

1025.11.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of qualifying records made available for release (Penal Code § 832.7(b)(6)):

(a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers
(b) Information that would compromise the anonymity of whistleblowers, complainants, victims, and witnesses
(c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force
(d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

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)).

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1025.11.2 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 policy, but no longer than 180 days after the date of the department's discovery of the misconduct or use of force or allegation of misconduct or use of force

1025.11.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

(a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.

(b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

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

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to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about misconduct or use of force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 7923.000, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(8)).

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Employee Of The Quarter Program

1026.1 PURPOSE AND SCOPE

The Atherton Police Department will begin an Employee of the Quarter program in January of 2012 to recognize the exceptional performance of departmental members.

1026.2 EMPLOYEE OF THE QUARTER GUIDELINES

(a) Any employee can nominate another employee other than themselves (all regular and part-time employees are eligible). The nomination form should state the specific reason for the nomination, e.g., example of exemplary service, going above and beyond the call of duty, completing an outstanding project, etc.

(b) The Committee will review the nomination forms and decide on the employee to be recognized.

(c) The employee chosen to be the Employee of the Quarter will be placed on the Employee of the Quarter plaque and be eligible for Employee of the Year.

(d) The employee will receive a Certificate of Recognition of Outstanding Service.

1026.3 EMPLOYEE OF THE QUARTER COMMITTEE MEMBERS

(a) Chief of Police

(b) Police Commander

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Request for Change of Assignment

1027.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

1027.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wishing a change of assignment are to complete a Request for Change of Assignment form. The form should then be forwarded through the chain of command to their Division Commander.

1027.2.1 PURPOSE OF FORM

The form is designed to aid employees in listing their qualifications for specific assignments. All relevant experience, education and training should be included when completing this form.

All assignments an employee is interested in should be listed on the form.

The Request for Change of Assignment form will remain in effect until the end of the calendar year in which it was submitted. Effective January 1st of each year, employees still interested in new positions will need to complete and submit a new Change of Assignment Request form.

1027.3 SUPERVISOR'S COMMENTARY

The officer's immediate supervisor shall make appropriate comments in the space provided on the form before forwarding it to the Division Commander of the employee involved. In the case of patrol officers, the Watch Commander must comment on the request with his/her recommendation before forwarding the request to the Division Commander. If the Watch Commander does not receive the Change of Assignment Request Form, the Division Commander will initial the form and return it to the employee without consideration.

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Commendations and Awards

1029.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Atherton Police Department and individuals from the community.

1029.2 POLICY

It is the policy of the Atherton Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

1029.3 COMMENDATIONS

Commendations for members of the Department or for individuals from the community may be initiated by any department member or by any person from the community.

1029.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

1029.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

(a) Identifying information:

1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
2. For individuals from the community - name, address, telephone number

(b) A brief account of the meritorious or commendable act with report numbers, as appropriate.

1029.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

(a) Identifying information:

1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
2. For individuals from the community - name, address, telephone number

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(b) A brief account of the meritorious or commendable act with report numbers, as appropriate.

(c) The signature of the person submitting the documentation.

1029.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Commander for his/her review. The Commander should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police or the authorized designee will present the commendation to the department member for his/her signature. The documentation will then be returned to the Administration secretary for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Commander. The documentation will be reviewed by the Commander and forwarded to the Chief of Police for his/her review. Documentation of the commendation shall be maintained in the employee's personnel file.

1029.5 AWARDS

Awards may be bestowed upon members of the Department and individuals from the community. These awards include:

- Award of Merit.
- Award of Valor.
- Lifesaving Award.
- Meritorious Conduct.

Criteria for each award and the selection, presentation and display of any award are determined by the Chief of Police.

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Fitness for Duty

1031.1 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).

1031.2 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.

1031.3 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 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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1031.4 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 periods.

1031.5 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 Commander, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

(a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.

(b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

1031.6 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 Personnel Department 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.

1031.7 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.

1031.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

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Meal Periods and Breaks

1032.1 PURPOSE AND SCOPE

This policy regarding meals and breaks for hourly employees, insofar as possible, shall conform to the policy governing all Town employees that has been established by the City Manager.

1032.1.1 MEAL PERIODS

Sworn employees, dispatchers and CSO's 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.

All employees shall request clearance from their Supervisor prior to taking a meal period.

The time spent for the meal period shall not exceed 30 minutes.

1032.1.2 15 MINUTE BREAKS

Each employee is entitled to a 15 minute break, near the mid point, for each four-hour work period. Only one 15 minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of an employee's shift unless approved by a supervisor. One 15 minute break may be attached to an employee's meal break with supervisor approval.

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Lactation Break Policy

1033.1 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).

1033.2 POLICY

It is the policy of this department 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).

1033.3 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 Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1033.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207; 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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Lactation Break Policy

1033.5 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.

1033.5.1 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).

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Planned Break Program

1034.1 PURPOSE

Around-the-clock law enforcement requirements create a physiological challenge for the human operators that must maintain the highest level of performance and personal safety in critical situations. The requirements of 24/7 operations can disrupt the basic physiological factors that have been shown to decrease performance, alertness, health, and safety. Acknowledging these fatigue-related risks and implementing effective strategies can mitigate the known detriments and improve performance and safety for both the community and officers.

1034.2 POLICY

Managing the complexity of human fatigue in 24/7 operations requires a comprehensive approach that involves education, strategies, scheduling, and healthy sleep. The objective of this program is to address the risks associated with fatigue in this agency's 24/7 operations, the physiological factors that underline fatigue, and create a strategy that can improve performance and alertness.

1034.3 PROCEDURES

1034.3.1 INTENDED USE

This program is designed to permit both sworn and non-sworn employees the opportunity to obtain the rest necessary to safely and effectively provide quality services to the public, as well as to maintain their own personal health. Additionally, this policy recognizes that employee's workdays are increasingly longer due to longer commutes to the workplace, and this longer workday increases fatigue and compromises personal safety.

Under the general supervision of the Watch Commander, employees may utilize this program under the following conditions:

(a) Employee is scheduled for court, or another similar work related appearance, before or after their shift and adequate time to rest is not available.

(b) Employee has a long commute ahead of them and fatigue may place the commuting employee in jeopardy.

(c) A change in work schedules.

(d) A prolonged day.

(e) Any unforeseen circumstances.

1034.3.2 SCHEDULING, PROCEDURES AND DURATION

The Watch Commander has the authority to approve or deny any request for a planned break. He/she shall consider staffing, calls for service, and the reason for the requested break prior to approval. Communications personnel may only participate in this program if qualified relief is available. Foremost consideration shall be given to the quality of community service and officer safety.

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Planned Break Program

(a) Requests for a planned break can be made at any time during a shift.

(b) The specific duration of a planned break is governed by the particular circumstances, but in most cases should not exceed one hour.

(c) Only one employee at a time may take a planned break. The Watch Commander shall determine necessity, which employee may break, when they may break, and the duration of the break.

(d) No one is allowed to accompany the employee during the planned break in the break room. This includes co-workers, family members, friends, etc.

(e) The dispatcher will be notified who is on a planned break, where they are taking the break, and what time the employee is scheduled to return to service.

(f) During the break, employees must be able to be quickly summoned, and must remain available, for emergency calls for service.

(g) Police officers may remove their gun belts during the break. Disrobing is not permitted in the break room.

(h) Off-duty employees may use the break room if there is a nexus to the job (prior to driving home, between shifts, a scheduled court appearance, etc).

(i) Sleeping medications, both prescription and overthecounter, are prohibited.

(j) Planned breaks may only be taken in the Police Department Break Room, unless otherwise approved by the Watch Commander due to extenuating circumstances.

(k) All personal items must be removed from the break room once the planned break is completed.

1034.3.3 PRIMARY BREAK LOCATION

The break room is located adjacent to the squad room. Employees are responsible for sheets, pillows, etc. The door to the room may be closed, but not locked.

1034.3.4 ADDITIONAL BREAK LOCATIONS

The planned break may also be conducted inside of the employee's police vehicle while the police vehicle is parked in the secured parking lot of the police department. Additional locations include the typing room, the conference room, and the employee's office (if applicable).

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Payroll Records

1035.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of department members who are eligible for the payment of wages.

1035.2 RECORDS

The Commander shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

1035.3 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Administration as established by the Town payroll procedures.

1035.4 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

1035.5 POLICY

The Atherton Police Department maintains timely and accurate payroll records.

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Overtime Compensation Requests

1037.1 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 enter this information into the Springbrook Time Card System as soon as practical after overtime is worked.

1037.1.1 DEPARTMENT POLICY

Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed 80 hours of compensatory time.

1037.2 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., three hours for court). With the exception of court time worked that amounts to three hours or less, the employee will enter the actual overtime worked into the Springbrook Time Card System.

1037.3 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 in the Springbrook Time Card System.

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Outside Employment

1039.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

1039.1.1 DEFINITIONS

Outside Employment - Any member of this Department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this Department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this Department for services, product(s) or benefits rendered.

Outside Overtime - Any member of this Department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this Department so that the Department may be reimbursed for the cost of wages and benefits.

1039.2 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)).

1039.3 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:

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(a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage

(b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department

(c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department

(d) Involves time demands that would render performance of the employee's duties for this department less efficient

1039.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

(a) The applicant will be required to enter into an indemnification agreement prior to approval.

(b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.

(c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:

1. The officer(s) shall wear the departmental uniform/identification.
2. The officer(s) shall be subject to the rules and regulations of this department.
3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
5. Outside security services shall not be subject to the collective bargaining process.

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6. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

1039.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to Department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1039.3.3 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.

1039.3.4 CONFLICT OF INTEREST

Examples of outside employment which are considered conflicts of interest, unless specifically approved in writing by the Chief of Police include, but are not limited to:

(a) Security Guard.

(b) Private Investigator, within San Mateo County or counties directly adjacent to San Mateo County.

(c) Bartender.

(d) Bouncer.

(e) Sales clerk position in a liquor store or gun dealership.

(f) Process Server.

(g) Repossessor.

(h) Debt Collector.

(i) Legal practice of criminal defense.

(j) Card dealer, handicapper, change maker, caller, machine repair person, keno runner, pit boss, table waitress, or employment in any gaming establishment where the employment is directly related to the primary purpose of the employer.

(k) Bodyguard.

(l) Employment as a "keeper".

(m) Funeral escort where traffic control or the wearing of a uniform which resembles that of a peace officer is required.

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1039.4 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.

1039.4.1 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.

1039.5 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.

1039.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

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Outside Employment

(a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the Town'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 Atherton Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.

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Workplace Fatality / Serious Bodily Injury Investigation Protocol

1040.1 PURPOSE

People deserve a safe work environment. Therefore, all workplace fatalities and/or serious injuries should be fully investigated. Even if an incident was not intentionally caused, manslaughter or other charges may be appropriate. The San Mateo County Justice System takes these cases very seriously. This protocol is intended to provide a guide for the thorough investigation of workplace incidents resulting in fatality or serious bodily injury.

1040.1.1 APPLICABILITY OF THIS PROTOCOL

This protocol is applicable when a victim suffers a serious bodily injury or fatality, which may have been caused by the actions or inactions or policies or procedures of an employer, supervisor or co-worker at their workplace.

1040.1.2 DEFINITIONS

(a) Workplace: As used in this protocol, the workplace is any location at which an entity is conducting business including, but not limited to, retail establishments, warehouses, construction sites, and business offices.

(b) Serious Bodily Injury: "Serious bodily injury" means 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.

(c) Victim: The victim can be any person who suffers a serious bodily injury or fatality proximately caused by the actions of a worker or corporation at a workplace.

(d) Incident: These situations should be referred to as incidents. Generally speaking they are not accidents since there is a cause for the incident.

1040.2 PROTOCOL

1040.2.1 NOTIFICATIONS

Cal OSHA (Occupational Safety and Health Administration): If the Victim is an employee at the workplace, notify Cal OSHA. Failure to notify Cal OSHA may result in a fine to the Police Department, Fire Department, or both. Cal OSHA can be reached 24 hours a day at (650) 573-3812. Document the name of the person to whom notification is given. Regardless of whether or not Cal OSHA responds, local law enforcement should conduct its own investigation, which may parallel Cal OSHA.

District Attorney's Office: The Consumer and Environmental Unit can provide guidance and the District Attorney's Investigation Bureau Unit can provide support for the investigation.

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Workplace Fatality / Serious Bodily Injury Investigation Protocol

1040.2.2 INVESTIGATION

Investigate whether the incident was caused by unsafe conditions and/or unsafe acts or omissions. *Begin immediately!* It is the best time to observe existing conditions, preserve evidence, and identify and interview witnesses. Your investigation should include:

1040.2.3 INVESTIGATE THE SCENE

(a) Treat the area as a crime scene.

(b) Ensure safety and security of the scene.

(c) Do NOT let anyone remove items from the scene, especially the employer or employees.

(d) Collect and preserve evidence.

(e) Thoroughly photograph the scene.

(f) Document who was present at the time of the incident.

1. Where were they when the incident took place?

(g) Were hazardous substances or equipment present?

1. Were they clearly marked and labeled?
2. Collect samples.

1040.2.4 LEARN ABOUT THE VICTIM

(a) How long had the victim been working for the employer?

(b) What is/was his/her job title?

(c) What was he/she doing at the time of the incident?

(d) Who assigned the victim to the job task?

(e) Identify any and all supervisors, owners, and co-workers who were aware of what the victim was doing at the time of the incident.

(f) Obtain victim's medical records related to incident, if possible.

1040.2.5 INVESTIGATE EMPLOYEE TRAINING

(a) What training and experience was required for the work being performed?

1. Did the victim have the necessary training and experience?

(b) What training was provided to the employee?

(c) Obtain copies of any and all standard operating procedures, training materials, training sign-in sheets, certificates, licenses, permits, etc.

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Workplace Fatality / Serious Bodily Injury Investigation Protocol

1040.2.6 INVESTIGATE EMPLOYER SAFETY RULES

(a) Did the employer have safety rules?

(b) How were the safety rules communicated to the employees and victim?

(c) How were the rules enforced?

(d) Was there adequate supervision?

(e) Were the supervisors and employees adhering to the company procedures and safety rules?

1040.2.7 INVESTIGATE THE WORK ENVIRONMENT

(a) Was the employee given a safe environment in which to work?

(b) Is the workplace clean and hazard free? Take photos.

(c) Were the appropriate tools and materials available?

(d) Were the appropriate tools and materials used?

(e) Had the employer received any safety warnings or citations in the past?

(f) Was equipment being properly and regularly maintained? Obtain records.

(g) Were regular safety inspections completed? Obtain records.

1040.2.8 INVESTIGATE THE SAFETY EQUIPMENT

(a) Was safety equipment available?

(b) Was safety equipment functioning properly?

(c) Was safety equipment used at the time of the incident?

(d) Was safety equipment regularly used?

(e) Were employees trained on when and how to properly use safety equipment?

(f) Document and photograph all safety equipment and its location.

1040.2.9 INVESTIGATE THE OWNER AND SUPERVISOR'S LEVEL OF AWARENESS

(a) Did the owner and/or supervisor know (or should they have known) about any unsafe issues prior to the incident?

(b) Had anyone take any steps to correct known issues? Ask employees, as well supervisors, managers and owners.

1040.2.10 INVESTIGATE THE CAUSE OF THE INCIDENT

(a) Was there an equipment failure? If so, why?

(b) Was machinery poorly designed and/or improperly used?

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(c) Were appropriate procedures being followed?

(d) Were hazardous substances involved? If so, what and was the employee trained to handle the substances?

1040.2.11 INVESTIGATE THE VICTIM

(a) Was a safe work procedure used?

(b) Was the worker distracted?

(c) Were drugs and/or alcohol a factor?

(d) Was the employee a safe worker? Why or why not?

1040.2.12 INTERVIEW WITNESSES, WHETHER PRESENT AT THE TIME OF THE INCIDENT OR NOT

(a) Owners

(b) Managers

(c) Supervisors

(d) Co-Workers

1. Ask them about the bulleted items above.
2. Ask them why they think the incident happened and how they arrived at their opinion.

1040.3 CRIMINAL CODES

Penal Code Section 192: Involuntary Manslaughter

Labor Code Section 6425: Willful violation of safety laws, regulations, and rules

(a) Who can be prosecuted?

1. "Any employer and any employee having direction, management, control, or custody of any employment, place of employment, or of any other employee"

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Occupational Disease and Work-Related Injury Reporting

1041.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues, and work-related injuries.

1041.1.1 DEFINITIONS

Definitions related to this policy include:

Occupational disease or work-related injury - An injury, disease, or mental health issue arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

1041.2 POLICY

The Atherton 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.).

1041.3 RESPONSIBILITIES

1041.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate (8 CCR 14300.35).

1041.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Town-wide disease or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

1041.3.3 COMMANDER RESPONSIBILITIES

When the Commander receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police, the Town's risk management entity, to ensure any required Division of Occupational Health and Safety Administration (Cal/OSHA) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

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1041.3.4 CHIEF OF POLICE RESPONSIBILITIES
The Chief of Police shall review and forward copies of the report to the Personnel Department. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

1041.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the Commander through the chain of command.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1041.5 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

1041.5.1 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 occupational disease or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the Town to determine whether the offered settlement will affect any claim the Town may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the Town's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

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Standards of Conduct

1042.1 POLICY

(a) Recognizing that law enforcement personnel are highly visible representatives of local government and are entrusted with the responsibility of ensuring the safety and security of the community, the Standards and Conduct for members of this Department are higher than the Standards of Conduct for other occupations and those of the general public.

(b) In this regard, Department members will conduct themselves in a manner that does not bring discredit upon himself or herself, the Department, the Town of Atherton, or the community.

(c) The Atherton Human Resources Policies and Procedures Manual sets forth a *standards of conduct policy* that Police Department personnel must be aware of. In the event conflict exists between the two policies, Lexipol will prevail in governance of Police Department personnel.

1042.2 STANDARDS OF CONDUCT

Listed below are the Standards of Conduct which each member of this Department shall adhere to.

1042.2.1 GENERAL RESPONSIBILITIES

(a) All members of this Department will become thoroughly familiar with these rules and regulations and will abide by them.

(b) All members of this Department will observe and obey all federal, state and local laws, all written Departmental orders and directives, and all lawful orders of their superior officers.

(c) All members of this Department shall maintain loyalty to the Police Department as is consistent with law, professional ethics and duties.

1042.2.2 REPORTING FOR DUTY

(a) **Absence from Duty**

1. Every member who fails to report for duty at the time, date and place specified without proper authorization is deemed to be "absent without leave." Such absences, whether for any portion of one shift or watch, or for the entire assigned shift or watch, may be subject to disciplinary action. Regardless of any disciplinary action imposed, employees absent without official leave shall not be entitled to use any paid leave or adjustment of their work schedule as compensation for the absence.

(b) **Illness**

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1. Barring unforeseen circumstances, members unable to report for duty because of illness or injury shall notify the Department, if practical, at least four hours prior to their scheduled reporting time. No member of this Department shall malinger, feign illness, nor attempt to shirk their duties by reason of this reported illness or injury.
2. Members found to be violating this section may be subject to discipline.

(c) **Tardiness**

1. All members shall be punctual in reporting for duty and other assignments.
2. Members may be considered tardy if they are not dressed in uniform or otherwise prepared for their assigned work scheduled at the appointed time.

(d) **Relief**

1. All members are to remain at their assignment and on duty until relieved by another member, or until dismissed by competent authority.

(e) **Availability to Call**

1. Members shall not conceal themselves except for a bonifide law enforcement purpose. They shall be immediately and readily available to the public during duty hours. All personnel are subject to emergency call-out at any hour of the day or night, including days off and holidays.

(f) **Address and Telephone Numbers**

1. Members shall keep the Department informed of their correct address and telephone number at all times.
2. Change of address or phone number shall be reported in writing to the office of the Chief of Police and the Division Commander within 24 hours of such change.
3. All members are required to have an operational telephone at their place of residence.
4. No member shall release another Department member's phone number or address to any person outside the Department.

(g) **Physical Fitness**

1. All members of the Police Department shall maintain themselves in good physical condition to the extent that the ability to perform their job is not impaired.

(h) **Incapacity to Perform Duties**

1. Department members, while on duty, who are unable to perform their duties due to illness, exhaustion or any other impairment will report this fact to their supervisor, who will determine the proper disposition.

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1042.2.3 ATTENTION TO DUTY

(a) **Duty Responsibilities**

1. Members of the Police Department are always subject to duty, although periodically relieved of its routine performance.
2. Members of the Police Department shall at all times respond to the lawful orders of superior officers and other proper authorities.
3. Proper law enforcement action must be taken whenever required.
4. The administrative delegation of the enforcement of certain laws and ordinances to particular units of the Police Deparment does not relieve members from other units from the responsibiliity of taking prompt, effective action within the scope of those laws and ordinances when occasions so require.
5. Members assigned to special duties are not relieved from taking proper action outside the scope of their specialized assignment when necessary.

(b) **Performance of Duty**

1. All members shall perform their duties as required or directed by law, Department Rules and Policies, or orders from a superior officer.
2. All lawful duties required or directed by competent authority shall be performed promptly as directed, notwithstanding the general assignment of duties and responsibilities.

(c) **Responding to Calls for Service**

1. Members on duty shall respond without unreasonable or unnecessary delay to all calls for law enforcement assistance from citizens or other personnel.
2. Emergency calls take precedence; however, all calls shall be answered as soon as possible, consistent with safety precautions and vehicle laws.
3. Failure to answer calls for law enforcement assistance without justification is misconduct.
4. Except under the most extraordinary circumstances, or when otherwise directed by a competent authority, no member shall fail to answer any known telephone or radio call directed to him.
5. The dispatcher will be informed at all times when changing locations or status.

(d) **Sleeping**

1. Members shall not sleep while on-duty.

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2. This prohibition shall not be applied when the member has not been allowed to go home, or has been required to remain at work in unusual circumstances such as disasters.

3. Department members taking part in the "Planned Break" Program are not in violation of this section.

(e) **Inattention to Duty**

1. Members shall not waste time or fail to be attentive to their duties.

(f) **Personal Activities on Duty**

1. Members of the Department will not devote any of their on-duty time to any activity that does not relate to a law enforcement function.

2. Members of the Department will not perform any law enforcement duty for the purposes of private gain, nor will they make any private purchases when in uniform unless for personal maintenance or sustenance, or as authorized by competent authority.

(g) **Judicial and Investigative Actions, Appearances and Testifying**

1. Attendance at court or quasi-judicial hearings as required by subpoenas and arising out of law enforcement duties is an official duty assignment.

2. Permission to omit this duty must be obtained from the judge, District Attorney's office, or other competent court official.

3. When appearing in court, the member will report in uniform or appropriate civilian clothes. Members shall present a neat, clean appearance and avoid any conduct that might imply disrespect to the court.

(h) **Reports**

1. Members shall promptly submit such reports as are required by the performance of their duties or by competent authority.

2. All reports must be completed before the end of the members work day, unless exempted by the members immediate supervisor.

3. Any report which includes an "In-Custody" arrest must be completed before the members is allowed to go off-duty.

(i) **Loitering**

1. All members on duty shall not loiter about or remain idle in any public place or business except as is necessary to perform a Departmental task.

(j) **Policy in Joint Jurisdictional Cases**

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1. In order to minimize confusion and efficiently execute the basic responsibilities of the law enforcement functions, it shall be the policy of this Department that when jurisdiction disputes arise between this Department and other police agencies, Atherton Police Department personnel shall accept and handle the case.
2. After reasonable attempts to resolve the dispute have failed, the decision will be made by the Watch Commander.
3. The matter will then be brought to the attention of a higher authority through proper channels and will be resolved at the administrative level.

(k) **Assistance**

1. All members are required to take appropriate law enforcement action toward aiding a fellow peace officer exposed to danger, or in a situation where danger might be impending.

1042.2.4 DUTY TO OBEY ORDERS

(a) **Transaction of Official Business**

1. Every member of this Department must transact official business through proper legal channels.
2. This regulation does not deny a member the privileges of contacting the Chief of Police or Commander on matters of a personal nature.

(b) **Questions Regarding Assignment**

1. Members in doubt as to the nature or detail of their assignment shall seek such information from their supervisor by going through the chain of command.

(c) **Manner of Issuing Orders**

1. Orders from a superior officer to a subordinate officer shall be in clear and understandable language, civil in tone and issued in pursuit of Departmental business.

(d) **Conflicting Orders**

1. Upon receipt of an order conflicting with any previous order or instructions, the member affected will advise the person issuing the second order of this fact.
2. Responsibility for countermanding the original instruction rests with the individual issuing the second order. He/she shall report said action to the member issuing the original order.
3. If so directed, the latter command shall be obeyed first.

(e) **Unlawful Orders**

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1. No command or supervisory officer shall knowingly issue any order that is in violation of any law, ordinance or Departmental policy.

(f) **Obedience to Unlawful Orders**

1. Obedience to an unlawful order is never a defense for an unlawful action; therefore, no member is required to obey any order that is contrary to any law.
2. Responsibility for refusal to obey an order rests with the members. He/she shall be strictly required to justify his/her actions.

(g) **Obedience to Unjust or Improper Orders**

1. Members who are given orders they feel to be unjust or contrary to the rules and regulations must first obey the order to the best of their ability and then proceed to appeal through the chain of command.

(h) **Reports and Appeals - Unlawful, Unjust and Improper Orders**

1. A member receiving an unlawful, unjust or improper order shall, at first opportunity, report in writing to the Chief of Police through official channels.
2. This report shall contain the facts of the incident and the action taken.
3. Appeals for relief from such orders may be made at the same time.
4. Extra Departmental action regarding such an appeal shall be conducted through the Chief of Police.

(i) **Legal Opinions Requested**

1. Legal opinions may be obtained through the City Attorney or the District Attorney's Office. This shall be done in writing and carried though the chain of command.

(j) **Criticism of Orders**

1. Members, in their official capacity, shall not publicly criticize instructions or orders received by them from a superior officer or other lawful authority.
2. Members who wish to criticize a Departmental policy, procedure, or order may do so by going through proper channels within the organizational structure.

(k) **Insubordination**

1. Failure or refusal of any member to obey a lawful order, given by a superior officer or authorized investigator, shall be considered insubordination.
2. Ridiculing a superior officer or his/her orders, whether in or out of his/her presence, to the extent that such ridicule affects the operations of the Department, is insubordination.

(l) **Honesty in the Performance of Duty**

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1. No member shall falsify any report, official record or official communication (oral, written, electronic).
2. Falsification of information shall include communications that are misleading.

1042.2.5 USE OF ALCOHOL AND/OR DRUGS

(a) **Consumption of Intoxicants**

1. No intoxicants are to be consumed eight (8) hours prior to going on duty.

(b) **Consumption of Drugs**

1. Members under the influence of prescription drugs and/or medications, to the extent their ability to perform their assigned duties is impaired, shall not report for duty.
2. They shall be excused from duty on sick leave after making proper notification to the Department, consistent with the Departmental Sick Leave Policy.
3. Members shall not consume such drugs/medications while on duty if the effect of the substance impairs their ability to carry out their duties.

(c) **Intoxication**

1. Members and employees shall not, at anytime, be under the influence of alcohol and/or drugs while on duty.

(d) **Chemical Tests**

1. A supervisor may order a subordinate to submit to a chemical test of his blood, breath, or urine to determine the alcoholic and/or drug levels of his/her blood.
2. The supervisor must first be able to articulate the objective symptoms of being under the influence of intoxicants.

(e) **Officer in Charge, Responsibility**

1. Any member reporting for duty who is intoxicated, or unfit for duty because of emotional instability or physical disability, shall be relieved of duty by the Officer in Charge, and a written report shall be submitted to the Division Commander setting forth the circumstances of the incident.
2. If appropriate, the Division Commander may submit this matter for an Internal Affairs investigation if it is determined that inappropriate behavior or misconduct was the cause of the incident.

(f) **Intoxicants on Department Premises**

1. Members shall not bring into, or keep, any intoxicants, whether alcohol or drugs, onto Department premises or within Department vehicles except:

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(a) When necessary in the performance of a Department task or function.

1042.2.6 COURTESY

(a) **Courtesy to the Public**

1. Department members will be courteous to the public and tactful in the performance of their duties.
2. Members should refrain from the use of coarse, violent, profane, sarcastic or insolent language, and shall not express any prejudice concerning sex, race, religion, politics, national origin, or similar personal characteristics.

(b) **Conduct Toward Supervisors, Subordinates and Associates**

1. Members shall treat superior officers, subordinates, and associates with respect.
2. Members shall be courteous and civil at all times in their relationships with one another.
3. When on duty, and in the presence of the public, members should be referred to by rank and/or title.

(c) **Criticism of Others**

1. Members in their official capacity shall not publicly criticize or ridicule any official act of any member of this, or any other, department or office of a city, county, state or federal government.

(d) **Cooperation**

1. Cooperation between ranks and units of the Police Department is essential for smooth operations.
2. All members are responsible for establishing and maintaining a high spirit of cooperation within the Police Department.

(e) **Questions Pertaining to Departmental Procedures**

1. Members receiving an inquiry pertaining to Departmental procedure will explain the procedure's content and purpose, or refer the person making the inquiry to a Department member having the information.
2. Department members will not release any information pertaining to confidential or tactical procedures, and will advise the person making the inquiry of this restriction.
3. When necessary, the member receiving a question pertaining to confidential or tactical procedures may refer the person initiating the inquiry to the Chief of Police.

(f) **Contact of City Council**

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1. When a member of the City Council contacts a Department member concerning sensitive Departmental business, the councilperson will be referred to the Officer in Charge.
2. If the Officer in Charge determines the matter is particularly sensitive, the councilperson will be referred to the Chief of Police.

(g) **Impartial Attitude**

1. All members must conduct themselves impartially toward all persons coming to the attention of the Department.
2. All citizens are guaranteed equal protection under the law.
3. Exhibiting partiality for or against a person because of sex, race, creed, national origin, or influence is conduct unbecoming an officer.
4. Unwarranted interference in the private business of others when not in the interests of justice is also unbecoming conduct.

(h) **Supplying Identification**

1. Consistent with officer safety and protection of the public, members, while acting in an official capacity, will supply their name, rank and position in a professional manner to any person who may inquire.

1042.2.7 GRATUITIES AND BRIBES

(a) Members will not accept a bribe or engage in any act of influence, extortion or other unlawful means of obtaining money or property through their position with the Department.

(b) Members will not accept, either directly or indirectly, a fee, loan, reward or gift of any kind from any person in custody, discharged from custody, liable to arrest or complaint, or from any friend or relative of such person.

(c) Members, either indirectly or collectively, will not solicit any reward for the performance of duties or seek or ask for a gratuity of any kind.

(d) Members will not use their positions to seek favors or gratuities which would not ordinarily be accorded private persons.

(e) Members shall not seek, in any way, nor shall they accept from any person, money or other compensation for damages sustained, or expenses incurred by them in the line of duty without first notifying the Chief of Police in writing.

1042.2.8 ILLEGAL POLITICAL ACTIVITIES

(a) **Membership in Organizations**

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1. No Department member shall become a member or become connected with any group, organization, or party whose purpose is the violent overthrow of the American government.
2. No member shall be deprived of his constitutional or legal rights to join, participate in, or be connected with any legal organization whose purpose is to promote the racial, ethnic, religious, or political ideas and/or ideals of it's members as long as such membership does not affect the performance and efficiency of the member while on duty.

(b) **Political Campaigning**

1. On duty members will refrain from engaging in activities related to political campaigning.
2. Improper activities include, but are not limited to: engaging in campaign speeches, distribution of pamphlets, posting of campaign ads, willfully being photographed in uniform, either on or off duty, with political candidates.

1042.2.9 TOWN PROPERTY AND EQUIPMENT

(a) **Town Property**

1. No property of the Town of Atherton shall be converted to private use or taken or removed for personal reasons.

(b) **Department Property and Equipment**

1. Members are responsible for the proper care of the Police Department equipment assigned to them.
2. Damaged or lost property may subject the responsible individual to reimbursement charges and/or appropriate disciplinary action.

(c) **Damaged, Inoperative Property or Equipment**

1. Members shall immediately report to their Division Commander, in writing, any loss or damage to any Departmental property assigned to their use or used by them.
2. The immediate supervisor will be notified of any defects or hazardous conditions existing in any Department equipment or property.

(d) **Surrender of Departmental Property**

1. Members are required to surrender all Departmental property in their possession upon separation from the Department.

(e) **Transporting Citizens**

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1. Authorization for the transportation of citizens in Departmental vehicles will be made at the discretion of the Watch Commander and must be for a departmental purpose or in the furtherance of the Departmental mission within the community.

(f) **Purchases**

1. No Department purchases are to be made by any employee at any time without the specific authorization of the individual(s) responsible for purchasing.
2. When authorized purchases are made, receipts and/or invoices will be obtained and turned in immediately to the payroll / accounting office for processing.
3. The supervisor in charge may authorize the purchase of items deemed necessary to accomplish the task at hand in exigent circumstances.

1042.3 CONDUCT UNBECOMING OF A MEMBER OF THE POLICE DEPARTMENT

A member's conduct or behavior, either on or off duty, which is of such a nature that it causes discredit to the Police Department or the Town of Atherton is conduct unbecoming of a member of the Police Department.

(a) Such conduct or behavior is subject to disciplinary action.

1042.3.1 OTHER PROHIBITED CONDUCT

(a) **Assisting Criminals**

1. Members shall not communicate in any manner, directly or indirectly, any information which might assist persons guilty of criminal or quasi-criminal acts to escape arrest or punishment, or enable them to dispose of, or secrete evidence of unlawfual activity such as money, merchanidse, or other property.
2. This section shall not apply unless to further a specific police mission, investigation, or the development of an informant.

(b) **Compromising Criminal Cases**

1. Members shall not interfere with the proper administration of criminal justice.
2. Members shall not attempt to interrupt the legal process except where a manifest injustice might otherwise occur, or in the interest of justice, and shall not participate in, or be concerned with, any activity that might interfere with the process of law.

(c) **Recommending Attorneys and Bail Brokers**

1. Members shall not suggest, recommend, advise or otherwise counsel the retention of any specific attorney or bail broker to any person coming to their attention as a result of law enforcement business, nor shall they display any advertising matter for any attorney or bail broker.

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2. In any such case where such advice is given where a fee, gratuity, or reward is solicited, offered or accepted from an attorney or bail broker, that action shall constitute gross misconduct subject to disciplinary action.

(d) **Publicity**

1. Members shall not seek personal publicity in the course of their employment.
2. Members shall not permit their names or photographs to be used to endorse any product or service that in any way is connected with official duties without the permission of the Chief of Police.
3. Members shall not, without permission from the Chief of Police, allow their names or photographs to be used in any commercial testimonial that alludes to their position or employment with the Department.
4. All requests for public appearances, speeches, demonstrations, etc., are to be directed to the Office of the Chief of Police, or his designee, for assignment of appropriate personnel through the chain of command.

(e) **Private Use of Department Address**

1. Members and employees will not use the Department as their primary mailing address for private purposes.
2. The Department's address will not be used as the primary address on any motor vehicle registration or operator's license.

(f) **Social Conduct**

1. While on duty, Department members shall not:
   (a) Encourage, suggest, offer or accept sexual favors.
   (b) Encourage, suggest, offer or provide lenience in enforcement in return for sexual or social encounters.
   (c) Encourage, suggest, offer, or perform any services in the line of duty in return for sexual or social encounters.
   (d) Engage in sexual activity.
   (e) Engage in any form of sexual harassment.
2. While off duty, members shall not use their official law enforcement position to further any of the above listed activities.

(g) **Gambling**

(a) No member shall gamble while on duty.

(h) **Neighborhood Disputes**

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(a) When on or off duty, Department members will avoid becoming officially involved, under the color of authority, in quarrels or disputes occurring in their own neighborhoods, unless the incident involves an immeidate threat to human life.

(b) In any event, Department members will give first consideration to their capacity to render appropriate and adequate response before any action is taken.

1042.3.2 ENFORCEMENT ACTIVITIES

(a) **Use of Physical Force**

1. Malicious assaults or batteries committed by members in the performance of their law enforcement duties constitute gross misconduct.

2. The use of physical force shall be restricted to circumstances specified by law when necessary to accomplish a law enforcement task or to overcome actual resistance.

(b) **Custody of Prisoners**

1. Members charged with the custody of prisoners shall observe all laws and Departmental orders regarding this activity.

2. Prisoners shall be kept secure, treated firmly and humanely, and shall not be subjected to unnecessary restraint.

(c) **Transportation of Prisoners**

1. All prisoners must be searched before being transported. If multiple prisoners are transported, additional personnel should be used if deemed necessary by the Watch Commander. The dispatcher shall be notified of the starting and ending mileage.

(d) **Arrests**

1. In making arrests, members shall strictly observe the laws of arrest and the following provisions:

   (a) Only necessary restraint to assure safe custody and the safety of the officer shall be employed.

   (b) The arresting or transporting officer is responsible for the safety and protection of the arrested person while in his custody.

   (c) The arresting officer shall notify his/her supervisor and the custodial officer of any injury, or apparent illness or other condition, that indicates the arrested person may need special care.

(e) **Special Weapons**

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(a) No special weapon shall be used without specific authorization from the Chief of Police, Commander, or the Watch Commander.

(f) **Official Records**

(a) No official records will be destroyed by any member of this Department except as provided by law.

(g) **Reports and Bookings**

(a) No member shall knowingly falsify any official report.

(h) **False Reports, Statements, Affidavits**

(a) No member of this Department shall knowingly and intentionally prepare, sign, and/or submit a false report, statement, or affidavit.

(i) **Off-duty Enforcement Action**

(a) Prior to taking enforcement action, off duty officers will give first consideration to causing the appropriate action to be effected by on duty personnel from the law enforcement agency in which the activity occurs.

(b) The Department recognizes that off duty officers cannot rely on the immediate assistance or application of law enforcement resources in the same capacity as while on duty and does not expect officers to jeopardize themselves or others by taking law enforcement action while off duty.

(c) When action is considered necessary and consistent with the tactical situation, offense involved, or other factors as articulated by the involved officer, any law enforcement action taken may be governed by the same policies, procedures, rules and regulations that apply to on duty personnel in a similar situation.

1042.3.3 DONATIONS FROM CITIZENS

(a) Department members who are approached by a citizen who expresses a desire to donate money or other items of value to the Police Department will advise the person to contact the Chief of Police and/or take the person's name and telephone number and provide that information to the Chief of Police.

(b) Nothing in this order prevents the members from listing or explaining various funds or organizations available if the citizens so requests.

1042.4 TOWN OF ATHERTON CODE OF CONDUCT POLICY

All members of this Department are required to adhere to the Town of Atherton's "Code of Conduct" Policy. This policy was approved on September 17, 2008, and adopted by Town of Atherton Resolution number 08-36.

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Personal Appearance Standards

1043.1 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.

1043.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

1043.2.1 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect, worn up or in a tightly wrapped braid or ponytail.

1043.2.2 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.

1043.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1043.2.4 FACIAL HAIR

Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or his or her designee.

1043.2.5 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.

1043.2.6 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

(a) Necklaces shall not be visible above the shirt collar.

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(b) Earrings shall be small and worn only in or on the earlobe.

(c) One ring or ring set may be worn on each hand of the department member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.

(d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.

(e) Wristwatches shall be conservative and present a professional image.

(f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

1043.2.7 FEMALE PERSONNEL HAIR DEVICES
Hair devices worn to hold longer hair in place shall be concealed as much as possible, and shall be a color and style that blends with the hair.

1043.2.8 FEMALE PERSONNEL COSMETICS AND PERFUME

(a) Make-up, when worn, shall be subdued and blended to match the natural skin color of the individual.

(b) No excessively bright colors should be used for rouge, eye shadow, lipstick or nail polish.

(c) Perfume or cologne shall be worn in moderation.

1043.3 TATTOOS
While on-duty or representing the Department in any official capacity, tattoos or other body art shall be concealed.

1043.4 BODY PIERCING OR ALTERATION
Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

(a) Tongue splitting or piercing.

(b) The complete or transdermal implantation of any material other than hair replacement.

(c) Abnormal shaping of the ears, eyes, nose or teeth

(d) Branding or scarification.

1043.5 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

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such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

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Uniform Regulations

1045.1 PURPOSE AND SCOPE

The uniform policy of the Atherton 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 policies:

Department Owned and Personal Property

Body Armor

Personal Appearance Standards

The Uniform and Equipment Specifications manual is maintained and periodically updated by the Chief of Police or his/her designee. That manual should be consulted regarding authorized equipment and uniform specifications.

The Atherton 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.

1045.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis, or other time of need.

(a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.

(b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.

(c) Personnel shall wear only the uniform specified for their rank and assignment (Penal Code § 13655).

(d) The uniform is to be worn in compliance with the specifications set forth in the department's uniform specifications that are maintained separately from this policy.

(e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.

(f) 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.

(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.

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(i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.

(j) Mirrored sunglasses will not be worn with any Department uniform.

(k) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or the authorized designee.

1. Wrist watch
2. Wedding ring, class ring, or other ring of tasteful design. A maximum of one ring/ set may be worn on each hand
3. Medical alert bracelet

1045.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

(a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.

(b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Commander.

1045.3 SWORN OFFICER UNIFORMS

The following sections provide details of the uniforms which must be worn by sworn personnel.

1045.3.1 SHIRTS

(a) Wool, wool blend, or polyester/cotton fabric.

(b) Color to be L.A.P.D. dark blue.

(c) Uniform shirt may be either long sleeve or short sleeve.

1. When a short sleeve shirt is worn, or when a long sleeve shirt is worn without a tie, officers are to wear a white, black or dark blue crew neck T-shirt that is free from stains, holes or visible wear.
2. During cool weather, and while wearing a long sleeve uniform shirt, members are permitted to wear a white, dark blue or black turtleneck type undershirt. If lettering is on the turtleneck, it must be Atherton PD specific.

(d) Uniform shirt must meet or exceed the minimum requirements of the Los Angeles Police Department.

(e) A nametag and badge number are required to be visible.

(f) Shirts must be color fast and not faded due to age or weathering.

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(g) All shoulder patches, service bars and rank insignia must be attached with the appropriate color thread.

(h) A class "A" uniform will consist of a long sleeve uniform shirt and black uniform tie.

1045.3.2 PANTS

(a) Wool, wool blend, or polyester/cotton fabric.

(b) Color to be L.A.P.D. dark blue.

(c) Uniform pants must meet or exceed the minimum requirements of the Los Angeles Police Department.

(d) Uniform pants are to have secondary pockets below each of the rear pant pockets, commonly referred to as "sap" pockets.

1045.3.3 MOTOR BREECHES

(a) Wool fabric with double layer shins and seat, and buttoned rear pockets.

(b) Color to be L.A.P.D. dark blue.

(c) Motor Breeches must meet or exceed the minimum requirements of the Los Angeles Police Department.

(d) Motor Breeches are to have an approved light blue braid sewn on each leg, centered on the outer seam, and extending from the bottom of the pockets to the bottom of the breech legs.

1045.3.4 SHOES AND BOOTS

(a) Boots or shoes are to be solid black, smooth finished, and able to accept a high polish.

(b) All stitching and laces are to be black in color.

(c) No ornamentation is permissible.

(d) When low cut shoes are worn, and socks are visible, officers shall wear either black or dark blue socks.

(e) Officers assigned to motorcycle duty, when wearing the authorized motor breeches, are to wear boots specifically designed for such duty. The boots are to be smooth finished and able to accept a high polish. The boots must be tall, near knee height in design. All stitching and laces are to be black in color.

1045.3.5 JACKETS

(a) Jackets are to be black or LAPD blue in color, and should have the approved Atherton Police Department shoulder patch on each shoulder, as well as the appropriate and approved rank insignia and name tag.

(b) Jackets are to be police uniform jackets.

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(c) Officers may purchase a dark blue "Ike" jacket that shall be worn with the approved shoulder patches, rank insignia, service stripes, badge and name tag. "Ike" jackets shall meet the following specifications:

(a) Color: LAPD Blue.

(b) Adjustment: Straps with two buttons at side seam.

(c) Closing: Full zipper front.

(d) Sleeves: Coat sleeves, full at a wrist.

(e) Lining: Black rayon.

(f) Pockets: Two military flap jacket pockets on breast with vertical pleat.

(g) Expansion: Vertical pleat from each shoulder seam to waistband in back.

(h) Length: Sufficient length to cover gun belt at normal waist position.

(i) Buttons: Police "P" buttons:

(a) Silver for Officer and Sergeant.

(b) Gold for Commander and Chief.

(j) Lapels: Peak type.

(k) Name tag: 2' 3/8" wide by ½" height. Standard blue blocked lettering. First initial, period, then last name.

(l) Epaulets: Military shoulder straps.

(m) Band:

(a) Single blue band for Sergeant.

(b) Single gold band for Commander.

(c) Double gold bands for Chief.

(d) Motor officers may wear a motorcycle jacket approved by the Chief of Police or his designee.

1045.3.6 ALTERNATIVE UNIFORMS

Sworn personnel are authorized to wear BDU’s under the following conditions:

(a) When working a special assignment (such as K9, GTF, or other detail as authorized by the Chief of Police).

(b) When working in inclement weather (rain or forecasted rain conditions).

Officers are authorized to wear a utility uniform in the following manner:

(a) Dark blue, two-piece uniform similar in style to a military Battle Dress Uniform, with multiple shirt and pants pockets. Either the police badge or the embroidered badge must be worn.

(b) The uniform shirt will be tucked into the pants.

(c) The uniform pants may be worn straight legged or bloused to the top of the duty boots.

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(d) All utility uniforms will have the appropriate shoulder patches, rank, assignment insignia, badge and name tag.

(e) The utility uniform name tag may be an approved metal name tag, or may be an embroidered name tag.

1. The embroidered name tag will be a dark blue strip of fabric with the officer's name embroidered in white or silver lettering. The cloth name tag will be sewn centered above the left shirt pocket.

(f) Dark blue uniform shorts may be worn members assigned to Bicycle Patrol, by members assigned to a special event with their Sergeant's approval, and by members assigned to Patrol during periods of extreme hot weather with their Sergeant's approval.

1045.3.7 HATS

The following style hats are permissible:

(a) Round soft cap with patent leather brim, dark blue in color.

(b) Baseball caps can be dark blue or black in color, made of solid fabric with a matching brim, and bearing a small Atherton Police Department patch on the front.

(c) Baseball caps can be black in color, made of solid fabric with a matching brim, with embroidered blue and yellow lettering which reads "Atherton Police Department".

(d) Trooper-style.

(e) Black Beanie - with "POLICE" written in white letters on the front.

1045.3.8 CAP PIECES, BANDS, ACORNS, AND BRAIDS

(a) Officers will be required to purchase a metallic cap piece capable of being attached to the front of either the trooper style hat, or the round soft cap.

(b) Officers and Sergeants will have silver metal cap pieces with blue enamel lettering.

(c) The Commander and the Chief of Police will have gold metal cap pieces with blue enamel lettering.

(d) The upper ribbon of the cap piece will bear the rank of those employees who hold the rank of Sergeant or above with their respective rank in blue enamel lettering.

(e) Officers choosing to wear the round, soft cap will be required to attach to the hat the following item:

1. In addition to the issued cap piece, each hat will have a band attached to at the top of the brim, held in place on both sides with "P" buttons.

2. Officers will have black bands while Sergeants will have silver bands. The Commander and the Chief of Police will wear gold bands.

3. The Chief of Police may wear a gold braid attached to the bill of the round, soft cap.

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(f) The wearing of any style of hat is optional and is not required to be worn during an officer's shift. However, at the direction of the Chief of Police, caps may be required as part of the Class "A" uniform.

(g) During periods of inclement weather, officers who choose to wear the round, soft cap, or trooper style hat may cover the hat with a plastic or rubber hat cover.

1. The hat covers shall be specifically designed for the hat being worn.

1045.3.9 SHOULDER PATCHES, RANK INSIGNIA, SERVICE STRIPES, AND OTHER UNIFORM ITEMS

(a) All uniforms worn by any member of this Department shall be worn with two Atherton Police Department shoulder patches, one on each shoulder.

1. Shoulder patches are to be sewn on each sleeve, centered, and placed one inch below the shoulder seam. This requirement is the same for long and short sleeve shirts and will apply to both sworn and non-sworn members of the Department.

(b) All members of this Department, whether sworn or non-sworn, may wear service stripes to indicate the number of full time, paid years of service they have.

1. Service stripes will only be worn on the long sleeve uniform shirt. A member may also choose to wear them on the uniform jacket.
2. Each service stripe will indicate five (5) years of service and may include service years from other police agencies.
3. Service stripes are to be blue in color with yellow borders.
4. Service stripes are to securely sewn on the outside of the left uniform sleeve, just above the sleeve cuff seam.
5. Wearing of service stripes is optional.
6. In addition to the described service stripes, members of this Department are authorized to wear service recognition pins issued by the Town of Atherton. These pins are to be worn on the right half of the left uniform shirt pocket.

(c) Members of this Department who have been promoted to the rank of Sergeant or above will wear the following insignias:

1. Sergeants will wear three (3) chevrons, blue in color with yellow borders, sewn and centered directly below each shoulder patch. In place of the three (3) chevrons, sergeants may wear three (3) silver colored metal chevrons on each collar of the uniform shirt.
2. The Commander will wear one (1) gold colored metal star on each collar of the uniform shirt. In addition, a single gold colored metal star may be worn on each shoulder of a uniform jacket. When worn on a uniform jacket, the gold star will be worn on the top shoulder, near the shoulder seam of the jacket, and be mounted from front to rear.

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3. The Chief of Police will wear four (4) gold colored metal stars on each collar of the uniform shirt. As is described for the Commander, the Chief of Police may wear this insignia on a uniform jacket in the same fashion.

(d) Field Training Officers, K-9 Officers, Motorcycle Officers, Crisis Intervention Officers, Hostage Negotiation Officers, School Resource Officers, and Special Weapons and Tactics Officers may wear appropriate insignias to indicate their assignment.

1. Pins: 7/16" in height. Silver colored metal. Capital block letters.
2. Field Training Officers may wear a pin with F.T.O. This pin is to be worn centered above the right uniform shirt pocket and above the required name tag.
3. K-9 officers may wear a K-9 pin. This pin is to be worn in the same manner as the F.T.O. pin.
4. Those officers assigned to motorcycle duty may wear one or both of the following insignias:
   (a) A silver colored metal "wheel and arrow" pin, as approved by the Chief of Police, may be worn centered above the right uniform shirt pocket and directly above the name tag.
   (b) Officers may also wear a small version of the "wheel and arrow" patch, as approved by the Chief of Police, on the left uniform shirt. The patch is to be centered directly below the approved shoulder patch.
5. Crisis Intervention Officers may wear a pin with C.I.T. This pin is to be worn in the same manner as the F.T.O. pin.
6. Hostage Negotiation Officers may wear a pin with H.N.T. This pin is to be worn in the same manner as the F.T.O. pin.
7. School Resource Officers may wear a pin with S.R.O. This pin is to be worn in the same manner as the F.T.O. pin.
8. Special Weapons and Tactics Officers may wear a pin with S.W.A.T. This pin is to be worn in the same manner as the F.T.O. pin.
9. At the direction of the Chief of Police, members of this Department may wear other pins recognizing participation in certain events. These events include, but are not limited to:
   (a) American Flag Pin.
   (b) Breast Cancer Pink Ribbon Pin.
   (c) C.H.P. 10851 award.
   (d) Peace Officers Memorial pin.
   (e) Red Ribbon Week.
   (f) 911 Pin..
   (g) Town of Atherton Pin..

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10. Members shall not wear more than two assignment pins at one time. Members wearing two pins simultaneously shall wear the smaller pin, if applicable, above the larger pin, creating a triangle effect.

(e) All members are required to wear a name tag displaying the member's first initial and last name. The name tag is to be centered above the right uniform shirt pocket at the top seam of the pocket.

(f) When an officer is required to wear a tie, the tie shall be a standard, black uniform tie.

(a) Officers and Sergeants shall wear a silver colored, metal tie bar attached from the right side of tie. The top edge of the tie bar must be even with the top edge of the uniform shirt pocket seams.

(b) Command staff personnel shall wear a gold colored, metal tie bar attached from the right side of tie. The top edge of the tie bar must be even with the top edge of the uniform shirt pocket seams.

(g) For sunlight protection, officers utilizing a police motorcycle may wear removable blank sleeves covering their forearms. The removable blank sleeves must be the same color as the uniform shirt and free from any sort of colored insignia.

1045.4 NON-SWORN EMPLOYEES

The following uniform requirements are intended for non-sworn members of this Department who are required to wear a uniform. These members include Dispatchers, Community Service Officers and Explorers.

(a) Uniform shirts are to be of the same quality as required for sworn members of this Department.

(b) Shirts may be long or short sleeve, light blue in color with approved shoulder patches, nametags, service stripes, and recognition pins.

(c) When uniform shirts are worn without a tie, members are to wear a white, black, or dark blue crew neck T-shirt or turtleneck, free from stains, holes and wear. If lettering is on the turtleneck, it must be Atherton PD specific.

(d) When ties are worn, a long sleeve shirt will be worn. Ties are to be black uniform ties with the approved tie bar as described above for sworn members. The criss-cross style tie may be worn by female personnel.

(e) Polo shirts with the police star or Town of Atherton logos are permitted as an alternative uniform shirt.

1045.4.1 PANTS

(a) Uniform pants are to be of the same quality as required for sworn members of this Department and similar in construction, except pants are not required to have "sap pockets" constructed below the rear pockets.

(b) The uniform skirt can be worn as an alternative to pants.

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1045.4.2 SHOES

(a) Shoes are to be smooth finished and able to accept a high polish.

(b) Stitching and laces are to be black in color. No ornamental attachments are to be visible.

(c) When low cut black shoes are worn, members shall wear black or dark blue socks.

1045.4.3 HATS

When a non-sworn member is required to work outside the station, during inclement weather, or whenever authorized by the Chief of Police, an approved baseball cap with a small Atherton Police Department patch, or embroidered "Atherton Police Department" lettering may be worn.

1045.4.4 SHOULDER PATCHES, RANK INSIGNIA, SERVICE STRIPES, AND OTHER UNIFORM ITEMS

Shoulder patches, service stripes and recognition pins or awards are authorized for all members of the Department as previously explained in this General Order.

1045.5 BADGES

(a) All members of this Department, whether sworn or non-sworn, while wearing the official uniform of the Atherton Police Department, shall wear an official badge.

(b) All badges of this Department will be of the following design:

1. Each badge will be a seven-point star with the Seal of the State of California centered in the badge. The words "Atherton Police" will be written on a band around the State Seal in blue enamel lettering. Each badge will be purchased from a designated vendor as approved by the Chief of Police.
2. For all ranks except Commander and the Chief of Police, each badge will be silver colored metal. Command Staff officers will have gold colored badges.
3. Each badge will have a badge number centered on the bottom point of the star.
4. Each badge will have a ribbon on the front of the top two points of the star that will indicate the position or rank of the wearer.
5. All badges are to be kept clean and polished and not allowed to become dirty or tarnished.
6. At all times, members required to wear and display a badge will do so in a proper manner. Badges are to be visible either on the uniform shirt, or on the front of a uniform jacket while being worn.
7. With the approval of the Chief of Police, and at the expense of the requesting member, flat badges may be purchased for plain clothes or off duty use.

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1045.5.1 MOURNING BADGE

Uniformed employees shall wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

(a) An officer of this department from the time of death until midnight on the 14th day after the death.

(b) An officer from this or an adjacent county from the time of death until midnight on the day of the funeral.

(c) Funeral attendee while attending the funeral of an out of region fallen officer.

(d) National Peace Officers Memorial Day (May 15th) from 0001 hours until 2359 hours.

(e) As directed by the Chief of Police.

1045.6 DUTY BELT

(a) All leather or nylon gear worn by uniformed members of the Atherton Police Department shall be black in color and have a basket weave or nylon design.

1. Members may choose to wear a man made, leather substitute for any items listed in this section. As with the leather gear, the equipment shall be black in color and have a basket weave design.

(b) Upon the direction and approval of the Chief of Police, officers may be exempt from wearing a duty belt due to medical or physical concerns, or due to the member's assignment.

(c) Leather gear should be cleaned and polished to give a professional appearance.

(d) Sworn and non-sworn personnel shall have black or silver colored snaps and buckles on all leather gear worn. The Command Staff personnel will have black or gold colored snaps and buckles on all leather gear worn.

(e) The following equipment items are approved for members to wear:

1. Black uniform belt with appropriate colored metal snaps and buckles. The uniform belt will be a minimum of 1 inch in width.

(a) The Chief of Police may authorize the wearing of a special Atherton Police Department buckle in place of the regularly attached belt buckle.

(b) The Chief of Police may authorize the wearing of special belts with velcro or other such material.

(f) **Sam Browne Belt:**

(a) The duty belt will be a standard black basket weave duty belt, 2 inches in width, with appropriate snaps and buckles.

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(b) Officers shall wear, at a minimum, an approved firearm holster and magazine pouch, handcuff case, ASP, Taser holster and radio holster.

(c) If an officer chooses to carry O.C. spray, he or she shall wear an O.C. spray holster.

(a) The carrying of O.C. spray is optional, and the decision whether or not to carry O.C. spray is left to the individual officer. See Policy § 301 for information.

(d) Officers may choose to carry other equipment including, but not limited to, a tape recorder holster, a flashlight holder, a key ring, and other equipment approved by the Chief of Police.

(e) Non-sworn members may, with the approval of the Chief of Police, use a Sam Browne duty belt to hold and carry equipment necessary for their job function.

1045.6.1 OTHER ESSENTIAL EQUIPMENT

(a) All members of the Atherton Police Department should be prepared for their regularly scheduled work assignment with little or no delay caused by a lack of proper equipment.

(b) Officers shall wear, carry and possess the following equipment at all times while on duty:

1. Approved firearm and issued ammunition.
2. Approved impact weapon is a 26" Collapsible baton.
3. Taser holster and Taser.
4. Approved uniform.
5. Note taking items to include note pad and writing instruments.
6. Traffic citations and warning citations.
7. Appropriate and necessary report forms for normal patrol activities such as impound forms, collision report forms, alarm response cards, etc.
8. Whistle.
9. Flashlight.
10. All necessary uniforms and equipment for specialty positions.

(c) Non-sworn members are required to wear, carry and possess all items as approved for their classification to be able to carry out and complete their normal work assignment.

1045.6.2 APPROVED FIREARM HOLSTERS

(a) On-Duty Uniform Holster:

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1. Level 3 Security Holster that has been approved by the Chief of Police or his/her designee.

(b) Non-Uniformed Officers:

1. Level 1 or Level II Security Holster that has been approved by the Chief of Police or his/her designee.

(c) Administrative Officers:

1. Level 1 or Level II Security Holster that has been approved by the Chief of Police or his/her designee.

1045.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

(a) Any optional uniform items shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department.

(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 optional items 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.

1045.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Atherton Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

Atherton Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief of Police or designee.

1045.9 CIVILIAN AND COURT ATTIRE

(a) Officers who are not assigned to the Patrol Division, or who have other assignments or details that do not require the wearing of the official uniform, shall wear clothing appropriate for the given assignment.

(b) Officers assigned to the Detective Bureau shall have a professional appearance when on-duty and representing the Department.

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(c) Officers attending training courses or other official functions should dress accordingly, being careful not to dress in a way that may offend the public or bring disrespect to the Department or profession.

(d) All personnel attending Traffic Court will wear the uniform of the day or business professional attire:

1. Men - Coat and tie
2. Women - Dress or pants with a jacket

(e) All personnel attending Criminal Court will wear the uniform of the day or business professional attire:

1. Men - Coat and tie
2. Women - Dress or pants with a jacket

(f) Uniform shorts shall not be worn to Traffic Court or Criminal Court.

(g) Approved firearms, handcuffs and other items shall be worn when away from the station in the event the member is required to take enforcement action.

1045.9.1 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief of Police, Atherton 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 Atherton Police Department to do any of the following (Government Code §§ 3206 and 3302):

(a) Endorse, support, oppose, or contradict any political campaign or initiative.

(b) Endorse, support, oppose, or contradict any social issue, cause, or religion.

(c) Endorse, support, or oppose, any product, service, company or other commercial entity.

(d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

1045.9.2 FTO SHADOW PHASE CLOTHING REQUIREMENTS

When a Field Training Officer (FTO) is conducting the Shadow Phase of a trainee's program, the FTO shall be equipped and dressed as follows:

(a) Shirt with a collar (either button-up or polo - business appropriate, no Hawaiian shirts)

(b) Long pants (jeans or khakis)

(c) Rubber soled boots or tennis shoes

(d) Weapon

(e) Handcuffs - 1 pair

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(f) Badge which can be readily and easily displayed as needed

(g) Jacket / sweater as needed (business appropriate)

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School Attendance

1048.1 POLICY

(a) The information contained in this order concerns:

1. Transportation.
2. Lodging.
3. Meal allowances.
4. Information required by the Training Manager for POST reimbursement and the final claim reconciliation.

1048.1.1 TRANSPORTATION

(a) Private vehicles are authorized for transportation. See the Training Manager for mileage reimbursement rates.

(b) RULE OF THUMB FOR VEHICLE TROUBLE ON THE ROAD: If a garage or service station can repair it for $50 or less, put it on your personal credit card. If more than $50, prior approval MUST be obtained from Police Administration.

1048.1.2 LODGING

(a) The Training Manager will make reservations. An itemized original receipt and credit card receipt for lodging MUST be brought back.

(b) Telephone billings or any miscellaneous unexplained charges over and above the basic room charges WILL BE DENIED. If a spouse accompanies the student, reimbursement will be made for a single occupancy only.

1048.1.3 MEAL ALLOWANCES

(a) Meals will be reimbursed at either the current POST/IRS rate, or at the current Town's rate. Contact the Training Manager for up-to-date information.

(b) Employees shall not include alcoholic beverage purchases on meal receipts turned in for reimbursement.

1048.1.4 INFORMATION REQUIRED FOR POST REIMBURSEMENT

(a) Mileage is to be accurately recorded, both from your work station (office) to school and from lodging to the school site.

(b) Note the course control number, which is available from the instructor.

(c) The POST 2-273 Training Reimbursement Form (if provided) is to be submitted to the instructor the first day of class.

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(d) Return all forms and copies of any certificates issued to the Training Manager as soon as possible.

(e) Failure to return the required documents to the Training Manager within 5 working days may be grounds for disciplinary action.

1048.1.5 EMPLOYEE RESPONSIBILITY

(a) Officers are to maintain all training materials supplied to them by the Training Manager or school(s). Additionally, when requested by the Training Manager, all handouts or other relevant resource material for evaluation and reproduction for in-house training programs will be forwarded to that unit.

(b) Upon return from outside training, all employees, sworn and non-sworn, may be required to submit a synopsis of the class, along with a course evaluation and recommendation for future officer assignments.

(c) Employees may be required to prepare a roll-call training program relative to training received.

(d) Employees shall consider class/school time as actual duty time and are expected and required to attend all class sessions unless specifically excused by a competent school official.

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Nepotism and Conflicting Relationships

1049.1 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.

1049.1.1 DEFINITIONS

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

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

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

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

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

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

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

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

1049.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

(a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.

(b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.

(c) Whenever possible, FTOs and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.

(d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.

(e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

1049.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

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

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Nepotism and Conflicting Relationships

1049.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

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Department Badges

1051.1 PURPOSE AND SCOPE

The Atherton Police Department badge and uniform patch as well as the likeness of these items and the name of the Atherton Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1051.2 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.

1051.2.1 FLAT BADGE

Sworn officers, with the written approval of the Chief of Police may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

(a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Atherton Police Department with the written approval of the Chief of Police.

(b) Should the flat badge become lost, damaged, or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department Owned and Personal Property Policy.

(c) An honorably retired officer may keep his/her flat badge upon retirement.

(d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

1051.2.2 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. Parking Control, Dispatcher).

(a) Non-sworn personnel shall not display any department badge except as a part of his/her uniform and while on duty, or otherwise acting in an official and authorized capacity.

(b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

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Department Badges

1051.2.3 RETIREE UNIFORM BADGE
Upon honorable retirement, employees will be provided a 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.

1051.3 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.

1051.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the department badge shall not be used without the expressed authorization of the Chief of Police and shall be subject to the following:

(a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Atherton 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.

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Temporary Modified-Duty Assignments

1053.1 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, Town rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

1053.2 POLICY

Subject to operational considerations, the Atherton 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.

1053.3 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 Atherton 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.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

1053.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Employees seeking a temporary modified-duty assignment should submit a written request to their Commanders or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

(a) An assessment of the nature and probable duration of the illness or injury.

(b) The prognosis for recovery.

(c) The nature and scope of limitations and/or work restrictions.

(d) A statement regarding any required workplace accommodations, mobility aids or medical devices.

(e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Commander will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Personnel Department or the Town Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Commander, with notice to the Chief of Police.

1053.5 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 Commander.

1053.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

(a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.

(b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.

(c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.

(d) Submitting a written status report to the Commander that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

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1053.5.2 SUPERVISOR RESPONSIBILITIES
The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

(a) Periodically apprising the Commander of the status and performance of employees assigned to temporary modified duty.

(b) Notifying the Commander and ensuring that the required documentation facilitating a return to full duty is received from the employee.

(c) Ensuring that employees returning to full duty have completed any required training and certification.

1053.6 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.

1053.7 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.

1053.7.1 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 Town's personnel rules and regulations regarding family and medical care leave.

1053.8 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.

1053.9 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

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who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

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Workplace Civility

1056.1 PURPOSE AND SCOPE

It is the commitment of the Atherton Police Department to ensure an environment free from negative, aggressive, and inappropriate behaviors, and that it is an atmosphere of respect, collaboration, openness, safety and equality. All employees have the right to be treated with dignity and respect (Terms are used interchangeably throughout this policy).

All complaints of negative and inappropriate workplace behaviors will be taken seriously and followed through to resolution, and employees who file complaints will not be victimized for "whistle blowing" or reporting others for their behavior.

Protection from negative, aggressive, and inappropriate behaviors extends to management, fellow employees, subordinates, clients, customers, and other business contacts, and expands beyond the place of work to off-site and work-related social events. It is the responsibility of all employees and managers of the agency to provide a healthy workplace environment to peers and co-workers, where all communications and interactions are marked by dignity and respect.

1056.2 ACCEPTABLE AND HEALTHY WORKPLACE BEHAVIORS DEFINED

Acceptable and healthy workplace behaviors include, but are not limited to:

- Using respectful, supportive, and encouraging language in all interactions, no matter the subject of conversation.
- Questioning a peer's position on an issue politely rather than asserting your position is the right one; listening to your peer's position with an open mind.
- Giving peer's direct, non-personal feedback as opposed to criticism.
- Expressing appreciation when a peer does something correctly and in a timely manner.
- Respecting each other as adults and trusting their decision making abilities.
- Approaching conflict with maturity and a true desire for resolution, rather than as a fight or opportunity to belittle a co-worker.
- Maintaining a positive attitude, even when your are having a bad day.

1056.3 INAPPROPRIATE (UNACCEPTABLE) BEHAVIORS DEFINED

These behaviors are defined as negative and even aggressive acts aimed at one or more individuals causing them to feel hurt, embarrassed, incompetent, disrespected, anxious, or depressed. Examples include, but are not limited to:

- Excessive yelling, repeated emotional outbursts, berating others, using harsh tone of voice.
- Talking down to others or using degrading remarks or tone of voice.
- Criticizing or talking down to others in front of a group; using a condescending tone.

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- Social exclusion or ostracism, ignoring others, silent treatment.
- Treating some less favorably than others.
- Undermining another's work by giving impossible to meet deadlines or workloads.
- Excessive monitoring of work or unnecessary micro management.
- Arbitrary or punitive punishment.
- Withholding pertinent work-related information; undermining another's work by not giving them enough information to do what is required of them.
- Gossiping or spreading rumors.
- Manipulating a person's job content; unwarranted removal of core responsibilities to make them feel bad.
- Blaming others for things out of their control.
- Acting "out to get" others.
- Making threats; using intimidating tactics.
- Any malicious behavior a reasonable person would find unprofessional, disturbing, and harmful to their psychological health.

These sorts of behaviors are well recognized as having damaging consequences for their recipients, the observers of the behavior, and the agency as a whole and are therefore not tolerated.

1056.4 MANAGEMENT RESPONSIBILITY

Management, others in positions of authority, and workplace representatives have a particular responsibility to ensure that healthy and appropriate behaviors are being exhibited at all times and that complaints to the contrary are addressed speedily. Management will:

- Provide good examples by treating all with courtesy and respect.
- Promote awareness of the policy and complaint procedures.
- Be vigilant for signs of inappropriate behaviors at work through observation and information seeking, and take action to resolve the behavior before it escalates.
- Deal sensitively with employees involved in a complaint, whether as the complainant or the alleged aggressor.
- Explain the procedures to be followed if a complaint of inappropriate behavior at work is made.
- Ensure that an employee making a complaint is not victimized for doing so, and seek resolution if such behavior occurs.
- Monitor and follow-up the situation after a complaint is made to prevent recurrence of the behavior.

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Workplace Civility

1056.5 EMPLOYEE RESPONSIBILITY

Employees can contribute to achieving a work environment which does not tolerate aggressive behavior at work. Employees should report what they see in the workplace as it relates to behaviors defined as unacceptable; employees are in a far better position than management to know what is happening with peers and coworkers. Employees should also cooperate with preventative measures introduced by management, and recognize that a finding of unacceptable behaviors at work will be dealt with through appropriate disciplinary procedures.

1056.6 CONCLUSION

This policy is not intended to expand policy language which would possibly have employees reasonably construe that the language contained in this policy prohibits a concerted activity. It is also not intended to prohibit employees from criticizing their employer, discussing or disclosing wage or benefit information, admonish employees to protect the names and other contact information of employees, or behave professionally or collegially in the workplace.

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Town Of Atherton Social Media Policy

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Atherton Social Media Policy

1. **Purpose**

This Social Media Policy ("Policy") establishes guidelines for the establishment and use by the Town of Atherton ("Town") of social media sites as a means of conveying information to members of the public.

The intended purpose of Town social media sites is to disseminate information from the Town about the Town's mission, meetings, activities, and current issues to members of the public.

The Town has an overriding interest and expectation in protecting the integrity of the information posted on its social media sites and the content that is attributed to the Town and its officials.

2. **Definitions**

A "social media site" is a site on the internet with is content created through and on the Internet. At this time, examples of social media include, but are not limited to, Facebook, Twitter, Nixle, Blogs, RSS, YouTube, LinkedIn, Instagram, GooglePlus, Pinterest, Delicious, and Flickr. For the purposes of the application of this Policy, a social media site shall not include the Town's Official website.

A "Town social media site" means official social media sites which the Town establishes and maintains, and over which it has control over all postings, except for advertisements or hyperlinks by the social media site's owners, vendors, or partners developed for the purpose of sharing information via the internet. Town social media sites shall supplement, and not replace, the Town's required notices and standard methods of communication.

"Posts" or "postings" mean information, articles, pictures, videos or any other form of communication posted on a Town social media site.

3. **General Policy**

a. The Town's official website at www.ci.atherton.ca.us (or any domain owned by the Town) will remain the Town's primary means of internet communication.
b. The establishment and maintenance of Town social media sites is subject to approval by the City Manager or his/her designee. Upon approval, Town social media sites shall bear the name and/or official logo of the Town.
c. Town social media sites shall clearly state that such sites are maintained by the Town for official use only.
d. Town maintained social media sites shall have a "no comment" policy and all sites established and maintained by the Town shall be configured to allow only the dissemination of information for official use only.

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Town Of Atherton Social Media Policy

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e. All established sites shall comply with the Town's Social Media Policy.
f. Town social media sites shall link back to the Town's official website for forms, documents, online services and other information necessary to conduct business with the Town.
g. Staff shall monitor content on Town social media sites to ensure adherence to both the Town's Social Media Policy and the interest and goals of the Town.
h. Town social media sites shall be managed consistent with the Brown Act. Members of the Town Council, Commissions and/or Boards shall not respond to, comment on, post, "like", "share", "tweet", "re-tweet or otherwise participate in any published postings, or use the site or any form of electronic communication to respond to, blog, or engage in serial meetings, or otherwise discuss, deliberate, or express opinions on any issue within the subject matter jurisdiction of the body.
i. The Town reserves the right to terminate any Town social media site at any time without notice.
j. Town social media sites shall comply with usage rules and regulations required by the site provider, including privacy policies.
k. The Town's Social Media Policy shall be displayed to users or made available by hyperlink.
l. All Town social media sites shall adhere to applicable federal, state and local laws, regulations and policies.
m. Town social media sites are subject to the California Public Records Act. Any content maintained on a Town social media site that is related to Town business, including a list of subscribers, posted communication, and communication submitted for posting, may be considered a public record and subject to public disclosure. All postings on Town social media sites shall be sent to an official Town email account and maintained consistent with the Public Records Act.
n. Employees representing the Town on Town social media sites shall conduct themselves at all times as a professional representative of the Town and in accordance with all Town policies.
o. All Town social media sites shall utilize authorized Town contact information for account set-up, monitoring and access. The use of personal email accounts or phone numbers by any Town employee is not allowed for the purpose of setting-up, monitoring, or accessing a Town social media site.
p. Town social media sites may contain content, including but not limited to, advertisements or hyperlinks over which the Town has no control. The Town does not endorse any hyperlink or advertisement placed on Town social media sites by the social media site's owners, vendors, or partners.
q. The Town reserves the right to change, modify, or amend all or part of this policy at any time.

4. Content Guidelines

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Town Of Atherton Social Media Policy

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a. The content of Town social media sites shall only pertain to Town-sponsored or Town-endorsed programs, services, and events. Content includes, but is not limited to, information, photographs, videos, and hyperlinks.
b. Content posted to the Town's social media sites must contain hyperlinks directing users back to the Town's official website for in-depth information, forms, documents or online services necessary to conduct business with the Town of Atherton, whenever possible.
c. The Town shall have full permission or rights to any content posted by the Town, including photographs and videos.
d. Any employee authorized to post items on any of the Town's social media sites shall review, be familiar with, and comply with the social media site's use policies and terms and conditions.
e. Any employee authorized to post items on any of the Town's social media sites shall not express his or her own personal views or concerns through such postings. Postings on any of the Town's social media sites by an authorized Town employee shall only reflect the views of the Town.
f. Postings must contain information that is freely available to the public and not be confidential as defined by any Town policy or state or federal law.
g. Postings may NOT contain any personal information, except for the names of employees whose job duties include being available for contact by the public.
h. Postings to Town social media sites shall NOT contain any of the following:

    - Comments that are not topically related to the particular posting being commented upon;
    - Comments in support of, or opposition to, political campaigns, candidates or ballot measures;
    - Profane language or content;
    - Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, or status with regard to public assistance, national origin, physical or mental disability or sexual orientation, as well as any other category protected by federal, state, or local laws;
    - Sexual content or links to sexual content;
    - Solicitations of commerce;
    - Conduct or encouragement of illegal activity;
    - Information that may tend to compromise the safety or security of the public or public systems; or
    - Content that violates a legal ownership interest of any other party.

i. Any content removed based on these guidelines must be retained, including the time, date and identity of the poster, when available.
j. The Town reserves the right to implement or remove any functionality of its social media site, when deemed appropriate by the Town Manager or his/her designee. This includes, but is not limited to, information, articles, pictures, videos or any other form of communication that is posted on a Town social media site.

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k. Except as expressly provided in this Policy, accessing any social media site shall comply with all applicable Town policies pertaining to communications and the use of the internet by employees, including email content.

5. LAW ENFORCEMENT INFORMATION RELEASE GUIDELINES

The release of information is subject to restrictions governed by applicable local, state, and federal laws. No employee shall release any information that would hamper the successful conclusion of an investigation or jeopardize the safety of affected persons. Release of information must conform to existing policies and procedures for release, including, but not limited to, review by the City Attorney prior to release.

In general:

(a) Employees may release the following information on crime/criminal activity:

1. Basic information about a crime or incident
2. Basic information about victims, except as excluded below
3. Description of suspects
4. Basic description of weapons and vehicles used
5. Basic description of stolen items
6. Basic description of injuries and condition of victims
7. The name, age, address, and other basic information about arrestees and the charges against them
8. Information contained in arrest affidavits and other applicable crime or incident reports
9. Booking photographs
10. Suspect photographs or sketches necessary to identify an unknown offender

(b) Employees shall not release the following information:

1. Names, addresses, and any other information that would identify the victim of any crime
2. Names, addresses, or identifying information related to juvenile arrestees
3. Active criminal investigative information, active criminal intelligence information, surveillance techniques, or personnel deployment
4. Names of informants and information provided by them
5. Active Internal Affairs investigations, as governed by state law
6. Names of witnesses
7. Information concerning on-going Town of Atherton litigation
8. The identity of critically injured or deceased persons prior to notification of next-of-kin
9. Home address, telephone numbers, and familial information of law enforcement personnel

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10. Any other information prohibited by state law from public disclosure

6. LAW ENFORCEMENT USE OF NIXLE

(a) When authorized/directed to send a message via NIXLE, employees will access the Town's authorized NIXLE web page at, example "https://agency.nixle.com" and log on using the Town email address and NIXLE password. From the "control panel" on the left side of the page, choose one of three message types: Alert, Advisory, or Community. The following describes each type of message:

1. Alert
   (a) intended for "urgent, must know"' and time-sensitive information, including:
      1. Missing person (at-risk) alerts
      2. Major building or area evacuations
      3. Imminent life threatening weather/Natural disaster advisory
      4. Shooting just occurred and shooting suspect is at large
      5. Shelter in place advisories
   (b) Alert information is sent to every user registered in the jurisdiction or defined geographic area and users cannot opt out of receiving these messages; therefore, Alert messages must be sent prudently.
   (c) Posting Authority: Due to the emergent nature of Alerts, they should only be posted with the approval of a PIO, Watch Commander, or member of the police management team.

2. Advisory
   (a) Intended for less urgent, need to know information, both time-sensitive and non-time-sensitive messages, including:
      1. Crime patterns
      2. School lock-downs
      3. BOLs (Be On the Lookout)
      4. Increased terror warnings
      5. Suspicious activity
      6. Time-sensitive traffic messages, including:
         a. A traffic collision that will either impact traffic or shut down a route for a specific period of time
         b. Implications during commute hours, high traffic areas, or during special events
   (b) Posting Authority: Advisory notifications may be posted by the PIO, Sergeant or above, or member of the police management team. Investigative implications should be taken into consideration on advisory postings, and de-conflicted with the Investigations Unit whenever possible.

3. Community
   (a) Non-time—sensitive messages, news, and information including:

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Town Of Atherton Social Media Policy

1057.6 PAGE 6

1. Police/Town sponsored Events
2. Community police meetings
3. General proactive announcements

(b) Posting Authority: General community-level notifications may be posted by the PIO, Sergeant or above, member of the police management team, or designee, with posting authority.

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Employee Speech, Expression and Social Networking

1058.1 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.

Further guidelines are set forth in the Atherton Human Resources Policies and Procedures Manual, Policy #408. In the event a conflict exists between the two policies, Lexipol will prevail for governance of Police Department personnel.

1058.1.1 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.

1058.2 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 Atherton Police Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

1058.3 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 Atherton 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 officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

1058.4 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 Atherton 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 Atherton Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Atherton 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 Atherton Police Department.

(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

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for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.

(g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Atherton 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).

1058.4.1 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 Atherton Police Department or identify themselves in any way that could be reasonably perceived as representing the Atherton 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 statement that any such speech or expression is not representative of the Atherton Police Department.

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Employee Speech, Expression and Social Networking

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).

1058.5 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 technology system (see the Information Technology Use Policy for additional guidance).

The Department 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 may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

1058.6 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.

1058.7 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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Illness and Injury Prevention

1059.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Atherton Police Department, in accordance with the requirements of 8 CCR 3203.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Townwide safety efforts.

1059.2 POLICY

The Atherton Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Department will establish and maintain an Illness and Injury Prevention program and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the Department to comply with all laws and regulations related to occupational safety.

1059.3 ILLNESS AND INJURY PREVENTION PLAN

The Commander is responsible for developing an illness and injury prevention plan that shall include:

(a) Workplace safety and health training programs.

(b) Regularly scheduled safety meetings.

(c) Posted or distributed safety information.

(d) A system for members to anonymously inform management about workplace hazards.

(e) Establishment of a safety and health committee that will:

1. Meet regularly.
2. Prepare a written record of safety and health committee meetings.
3. Review the results of periodic scheduled inspections.
4. Review investigations of accidents and exposures.
5. Make suggestions to command staff for the prevention of future incidents.
6. Review investigations of alleged hazardous conditions.
7. Submit recommendations to assist in the evaluation of member safety suggestions.
8. Assess the effectiveness of efforts made by the Department to meet relevant standards.

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(f) Establishment of a process to ensure serious illnesses or injuries and death are reported as required by the Division of Occupational Safety and Health Administration (Cal/OSHA) (8 CCR 342).

1059.4 COMMANDER RESPONSIBILITIES

The responsibilities of the Commander include but are not limited to:

(a) Managing and implementing a plan to reduce the incidence of member illness and injury.

(b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:

1. New member orientation that includes a discussion of safety and health policies and procedures.
2. Regular member review of the illness and injury prevention plan.
3. Access to the illness and injury prevention plan to members or their representatives as set forth in 8 CCR 3203.

(c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.

(d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:

1. Informing members of the illness and injury prevention guidelines.
2. Recognizing members who perform safe work practices.
3. Ensuring that the member evaluation process includes member safety performance.
4. Ensuring department compliance to meet standards regarding the following:
   (a) Respiratory protection (8 CCR 5144)
   (b) Bloodborne pathogens (8 CCR 5193)
   (c) Aerosol transmissible diseases (8 CCR 5199)
   (d) Heat illness (8 CCR 3395)
   (e) Emergency Action Plan (8 CCR 3220)
   (f) Fire Prevention Plan (8 CCR 3221)
   (g) Hazards associated with wildfire smoke (8 CCR 5141.1)

(e) Making available the Identified Hazards and Correction Record form to document inspections, unsafe conditions or work practices, and actions taken to correct unsafe conditions and work practices.

(f) Making available the Investigation/Corrective Action Report to document individual incidents or accidents.

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(g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.

(h) Conducting and documenting a regular review of the illness and injury prevention plan.

1059.5 SUPERVISOR RESPONSIBILITIES

Supervisor responsibilities include, but are not limited to:

(a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.

(b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.

(c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.

(d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the Commander.

(e) Notifying the Commander when:

1. New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
2. New, previously unidentified hazards are recognized.
3. Occupational illnesses and injuries occur.
4. New and/or permanent or intermittent members are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
5. Workplace conditions warrant an inspection.

1059.6 HAZARDS

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

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All significant actions taken and dates they are completed shall be documented on an Identified Hazards and Correction Record form. This form should be forwarded to the Commander via the chain of command.

The Commander will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

1059.7 INSPECTIONS

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

The Commander shall ensure that the appropriate documentation is completed for each inspection.

1059.7.1 EQUIPMENT

Members are charged with daily vehicle inspections of their assigned vehicles and of their personal protective equipment (PPE) prior to working in the field. Members shall complete the Identified Hazards and Correction Record form if an unsafe condition cannot be immediately corrected. Members should forward this form to their supervisors.

1059.8 INVESTIGATIONS

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

(a) A visit to the accident scene as soon as possible.

(b) An interview of the injured member and witnesses.

(c) An examination of the workplace for factors associated with the accident/exposure.

(d) Determination of the cause of the accident/exposure.

(e) Corrective action to prevent the accident/exposure from reoccurring.

(f) Documentation of the findings and corrective actions taken.

(g) Completion of an Investigation/Corrective Action Report form.

(h) Completion of an Identified Hazards and Correction Record form.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Occupational Disease and Work-Related Injury Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

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1059.9 TRAINING

The Commander should work with the Training Manager to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

(a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.

(b) To all members with respect to hazards specific to each member's job assignment.

(c) To all members given new job assignments for which training has not previously been provided.

(d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.

(e) Whenever the Department is made aware of a new or previously unrecognized hazard.

1059.9.1 TRAINING TOPICS

The Training Manager shall ensure that training includes:

(a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.

(b) Use of appropriate clothing, including gloves and footwear.

(c) Use of respiratory equipment.

(d) Availability of toilet, hand-washing and drinking-water facilities.

(e) Provisions for medical services and first aid.

(f) Handling of bloodborne pathogens and other biological hazards.

(g) Prevention of heat and cold stress.

(h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).

(i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.

(j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.

(k) Back exercises/stretches and proper lifting techniques.

(l) Avoidance of slips and falls.

(m) Good housekeeping and fire prevention.

(n) Other job-specific safety concerns.

1059.10 RECORDS

Records and training documentation relating to illness and injury prevention will be maintained in accordance with the established records retention schedule.

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Line-of-Duty Deaths

1060.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Atherton Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

1060.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a non-sworn member during the course of performing their assigned duties.

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1060.2 POLICY

It is the policy of the Atherton Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1060.3 INITIAL ACTIONS BY COMMAND STAFF

(a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Watch Commander and Dispatch.

1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).

(b) The Watch Commander should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.

(c) If the member has been transported to the hospital, the Watch Commander or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

(d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve

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the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

1060.4 NOTIFYING SURVIVORS

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police, Watch Commander or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Department Chaplain.

Notifying members should:

(a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.

(b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).

(c) Plan for concerns such as known health concerns of survivors or language barriers.

(d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.

(e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.

(f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.

(g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.

(h) Assist the survivors with meeting childcare or other immediate needs.

(i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.

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(j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.

(k) Provide their contact information to the survivors before departing.

(l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.

(m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Atherton Police Department members may be apprised that survivor notifications are complete.

1060.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

(a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.

(b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief of Police.

1060.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

1060.6 LIAISONS AND COORDINATORS

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including but not limited to:

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(a) Department Liaison.

(b) Hospital Liaison.

(c) Survivor Support Liaison.

(d) Wellness Support Liaison.

(e) Funeral Liaison.

(f) Mutual aid coordinator.

(g) Benefits Liaison.

(h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

1060.6.1 DEPARTMENT LIAISON

The Department Liaison should be a Commander or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include, but are not limited to:

(a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).

(b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.

(c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.

(d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.

(e) Coordinating all official law enforcement notifications and arrangements.

(f) Making necessary contacts for authorization to display flags at half-mast.

(g) Ensuring that department members are reminded of appropriate information–sharing restrictions regarding the release of information that could undermine future legal proceedings.

(h) Coordinating security checks of the member's residence as necessary and reasonable.

(i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

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1060.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

(a) Arrange for appropriate and separate waiting areas for:

1. The survivors and others whose presence is requested by the survivors.
2. Department members and friends of the deceased member.
3. Media personnel.

(b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Atherton Police Department members (except for members who may be guarding the suspect).

(c) Ensure that survivors receive timely updates regarding the member before information is released to others.

(d) Arrange for survivors to have private time with the member, if requested.

1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
2. The Hospital Liaison should accompany the survivors into the room, if requested.

(e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.

(f) If applicable, explain to the survivors why an autopsy may be needed.

(g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

1060.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Commander. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The

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deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.

- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include but are not limited to:

(a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes, and other locations, as appropriate.

(b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.

(c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.

(d) Providing assistance with travel and lodging arrangements for out-of-town survivors.

(e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:

1. Items should not be delivered to the survivors until they are ready to receive the items.
2. Items not retained as evidence should be delivered in a clean, unmarked box.
3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
4. The return of some personal effects may be delayed due to ongoing investigations.

(f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.

1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.

(g) Working with the Wellness Support Liaison to ensure that survivors have access to available counseling services.

(h) Coordinating with the department's Public Information Officer (PIO) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).

(i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal, and administrative investigations.

(j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.

(k) Introducing survivors to prosecutors, victim's assistance personnel, and other involved personnel as appropriate.

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(l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).

(m) Inviting survivors to department activities, memorial services, or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

1060.6.4 WELLNESS SUPPORT LIAISON

The Wellness Support Liaison should work with the department wellness coordinator or the authorized designee and other liaisons and coordinators to make wellness support and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the Wellness Support Liaison include but are not limited to:

(a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for wellness support and counseling services, including:

1. Members involved in the incident.
2. Members who witnessed the incident.
3. Members who worked closely with the deceased member but were not involved in the incident.

(b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive wellness support.

(c) Ensuring that wellness support and counseling resources (e.g., peer support, Critical Incident Stress Debriefing) are available to members as soon as reasonably practicable following the line-of-duty death.

(d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available wellness support and counseling services and assisting with arrangements as needed.

(e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional wellness support or counseling services are needed.

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Line-of-Duty Deaths

1060.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

(a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.

(b) Completing funeral notification to other law enforcement agencies.

(c) Coordinating the funeral activities of the Department, including, but not limited to the following:

1. Honor Guard
    (a) Casket watch
    (b) Color guard
    (c) Pallbearers
    (d) Bell/rifle salute
2. Bagpipers/bugler
3. Uniform for burial
4. Flag presentation
5. Last radio call

(d) Briefing the Chief of Police and command staff concerning funeral arrangements.

(e) Assigning an officer to remain at the family home during the viewing and funeral.

(f) Arranging for transportation of the survivors to and from the funeral home and interment site using department vehicles and drivers.

1060.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for but not limited to:

(a) Traffic control during the deceased member's funeral.

(b) Area coverage so that as many Atherton Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform the coordinator's duties in accordance with the Outside Agency Assistance Policy.

1060.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and will assist them in applying for benefits. Responsibilities of the Benefits Liaison include but are not limited to:

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(a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).

(b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:

1. Public Safety Officers' Benefits (PSOB) Programs.
2. Public Safety Officers' Educational Assistance (PSOEA) Program.
3. Social Security Administration.
4. Department of Veterans Affairs.

(c) Researching and assisting survivors with application for state and local government survivor benefits, such as:

1. Education benefits (Education Code § 68120).
2. Health benefits (Labor Code § 4856).
3. Worker's compensation death benefit (Labor Code § 4702).

(d) Researching and assisting survivors with application for other survivor benefits such as:

1. Private foundation survivor benefits programs.
2. Survivor scholarship programs.

(e) Researching and informing survivors of support programs sponsored by police associations and other organizations.

(f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.

1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.

(g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.

(h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

1060.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator’s responsibilities include, but are not limited to:

(a) Establishing methods for purchasing and monitoring costs related to the incident.

(b) Providing information on finance-related issues, such as:

1. Paying survivors’ travel costs if authorized.

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2. Transportation costs for the deceased.
3. Funeral and memorial costs.
4. Related funding or accounting questions and issues.

(c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.

(d) Providing accounting and cost information as needed.

1060.7 PUBLIC INFORMATION OFFICER

In the event of a line-of-duty death, the department's PIO should be the department's contact point for the media. As such, the PIO should coordinate with the Department Liaison to:

(a) Collect and maintain the most current incident information and determine what information should be released.

(b) Ensure that department members are instructed to direct any media inquiries to the PIO.

(c) Prepare necessary press releases.

1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
2. Ensure that important public information is disseminated, such as information on how the public can show support for the Department and deceased member's survivors.

(d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.

(e) Respond, or coordinate the response, to media inquiries.

(f) If requested, assist the member's survivors with media inquiries.

1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.

(g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.

(h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should ensure that media are notified when survivor notifications have been made.

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Line-of-Duty Deaths

1060.8 DEPARTMENT CHAPLAIN

The Department chaplain may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

1060.9 INVESTIGATION OF THE INCIDENT

The Chief of Police shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1060.10 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL

The Chief of Police may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

1060.11 NON-LINE-OF-DUTY DEATH

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

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Wellness Program

1061.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for department 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.

1061.1.1 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.

1061.2 POLICY

It is the policy of the Atherton Police Department to prioritize member wellness to foster fitness for duty and support a healthy quality of life for department members. The Department will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

1061.3 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., Personnel Department, 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 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 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 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.

1061.4 DEPARTMENT PEER SUPPORT

1061.4.1 PEER SUPPORT MEMBER SELECTION CRITERIA

The selection of a department 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.

1061.4.2 PEER SUPPORT MEMBER RESPONSIBILITIES
The responsibilities of department peer support members include:

(a) Providing pre- and post-critical incident support.

(b) Presenting department 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-designated resources in situations that are beyond the scope of the peer support member's training.

1061.4.3 PEER SUPPORT MEMBER TRAINING
A department peer support member should complete department-approved training prior to being assigned.

1061.5 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.

1061.6 PEER SUPPORT COMMUNICATIONS

Although the Department 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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Wellness Program

1061.7 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-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

1061.8 WELLNESS PROGRAM AUDIT

At least annually, the coordinator or the authorized designee should audit the effectiveness of the department'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.

1061.9 TRAINING

The coordinator or the authorized designee should collaborate with the Training Manager to provide all members with regular training on topics related to member wellness, including but not limited to:

- The availability and range of department wellness support systems.
- Suicide prevention.
- Recognizing and managing mental distress, emotional fatigue, post-traumatic stress, and other possible reactions to trauma.

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- Alcohol and substance disorder awareness.
- Countering sleep deprivation and physical fatigue.
- Anger management.
- Marriage and family wellness.
- Benefits of exercise and proper nutrition.
- Effective time and personal financial management skills.

Training materials, curriculum, and attendance records should be forwarded to the Training Manager as appropriate for inclusion in training records.

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Attachments

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Inspection check list.pdf

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ATHERTON POLICE DEPARTMENT
SHIFT INSPECTION CHECKLIST

EMPLOYEE: SUPERVISOR: DATE:

	ITEM	MODEL	SERIAL #	COMMENTS
	Firearm			
	Carbine (Rifle)			
	Ammo Magazines (3) w/case			
	Firearm Holster			
	Taser			
	Taser Holster			
	Taser Cartridge (1)			
	Taser Cartridge (2)			
	Handcuffs w/ Case and Key			
	Impact Weapon/Baton			
	Flashlight			
	OC Canister			Expiration Date:
	Ballistic Vest (front)			
	Ballistic Vest (back)			
	Badge			
	Uniform (IKE) Jacket w/ Band *			
	Uniform Long Sleeve Shirt			
	Uniform Short Sleeve Shirt			
	Uniform Pants			
	Uniform Hat w/ Band **			
	Uniform Tie w/ Bar ***			
	Uniform Nameplate ****			
	Uniform Belt (Black Basket Weave)			
	Utility LS/SS shirt (BDU)			
	Utility Pants (BDU)			
	Duty Belt			
	Belt Keepers			
	Rain Gear			
	Boots/Shoes			
	California DL			
	Department ID Card			
	Corp Yard Fob			
	Miranda Card			
	Digital Camera			
	Body Camera (Vie Vu)			
	Riot Bag with Gear:			
	• Gas Mask w/ Filter			
	• Riot Baton 26" w/ Ring			
	• Riot Helmet w/ Shield			
	• Flex Cuffs w/ Cutters			

*OFFICER - NONE / SGT - (1) BLUE / LT - (1) GOLD / CHIEF - (2) GOLD

** OFFICER - BLACK / SGT - SILVER / COMMAND STAFF - GOLD

*** EMPLOYEES - SILVER / COMMAND STAFF - GOLD

**** EMPLOYEES - SILVER / COMMAND STAFF - GOLD

OIC DA Office.pdf

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POLICE CHIEF'S ASSOCIATION
OF SAN MATEO COUNTY

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POLICE CHIEF'S ASSOCIATION
OF SAN MATEO COUNTY

OFFICER INVOLVED CRITICAL INCIDENT PROTOCOL
ROLL OF THE DISTRICT ATTORNEY'S OFFICE

ROLL OF THE DISTRICT ATTORNEY

THE DISTRICT ATTORNEY'S OFFICE has the following roles in the Officer Involved Critical Incident Protocol:

1. Participate with the venue agency and/or the Highway Patrol (when applicable) in the investigation of Officer Involved Critical Incidents.

2. Assist and advise investigators on various criminal law issues that may arise, such as ***Miranda***, voluntariness, search and seizure, probable cause to arrest, detention and releases, elements of crimes, immunity, and legal defenses.

3. Upon completion of the criminal investigation, analyze the facts of the incident as well as the relevant law to determine if violations of laws occurred, whether there is criminal liability.

4. Deputy District Attorneys will respond to all fatal (non-traffic) incidents.

DISTRICT ATTORNEY INVESTIGATIVE AUTHORITY

The District Attorney has separate investigative authority. When deemed appropriate by the District Attorney (or his designate), the District Attorney's Office may perform an independent investigation separate and apart from other agencies who are signatories of this protocol.

INSPECTOR'S DUTIES – CALL OUT

1. District Attorney's Inspector will be on call 24-hours every day and can be reached through County Communications.

2. Inspectors will respond to all officer involved shootings and critical incidents.

3. Upon arrival at the incident scene, the Inspector will:

a. Communicate with the venue agency official in charge of the scene;

b. With the input of the other agency, determine if a Deputy District Attorney is needed at the scene;

c. Begin a co-investigation with the Investigator designated by the venue agency. All reports generated will be submitted to the venue agency.

MEDIA RELATIONS

Inspectors will not make statements to the news media concerning the facts of the investigation. This is the responsibility of the venue agency.

ADMINISTRATIVE INVESTIGATIONS

Inspectors will cooperate fully with venue and employer Internal Affairs Investigators.

Atherton PD Audit Memo Format 1-16-2020.pdf

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ATHERTON POLICE DEPARTMENT

Inter-Department Correspondence

To:

From:

Date:

Subject: Title of Audit

Audit Purpose:

Audit Scope:

Audit Methodology:

Audit Results:

Audit Action Items:

OIC Officer Sergeant.pdf

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POLICE CHIEF'S ASSOCIATION
OF SAN MATEO COUNTY

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POLICE CHIEF'S ASSOCIATION
OF SAN MATEO COUNTY

Officer Involved CRITICAL Incidents Patrol Sergeant/First Non-Involved Office

Case # _____

SAN MATEO COUNTY

Officer Involved CRITICAL Incidents
Patrol Sergeant/First Non-Involved Officer

NAME OF INVOLVED OFFICER:_____

DATE OF OCCURRENCE:_____

LOCATION OF OCCURRENCE:_____

NAME OF KNOWN SUSPECT(S):_____

ASSIGNED INVESTIGATORS:_____

AREA:_____

YOU are considered in charge of the scene until relieved by a senior officer. Immediately get a quick briefing as to what happened to give you an idea of who and what is needed and the extent of the scene.

The **check-off areas** are presented in a sequential order that is recommended for officer involved critical incident scene investigation. Complex factors or other contingencies present in the investigation shall continue to be handled in accordance with established investigative principles and procedures.

DO NOT alter the position of evidence found at the crime scene until **AFTER PHOTOGRAPHS, MEASUREMENTS, FINGERPRINTS** and **WRITEN DOCUMENTATION** is complete.

ARRIVAL AT SCENE

Life saving efforts are a **first priority.** Make certain any injured are treated immediately.

If the suspect(s) has fled the scene, broadcast a description and/or direction of travel as soon as possible. Contact the involved officers – (**questions concerning scene management and public safety only**).

All suspects and weapons accounted for?

Identify officers (witnesses who were involved in the incident. These officers should be relieved of any responsibility in the investigation and removed from scene. They should be instructed **not to talk** to anyone other than the designated investigator(s).

Record exact time call received and type of call broadcasted.

Record exact time of arrival.

Request additional uniform personnel, as necessary to secure the scene and manage he incident.

Consider initiating the Incident Command System

Protect sensitive investigative information.

Use caution on all radio broadcasts.

Use of phones: Be aware that cellular phone traffic can be intercepted easily.

INJURED PARTIES

Assign an officer to ride in the ambulance with the injured parties – **with tape recorder** if possible to insure: (give specific instructions).

Protection of any physical evidence, recovery and security.

Maintain custody of any prisoners.

Obtain any spontaneous or unsolicited statements as well as a **dying declaration.**

Obtain any information from medical personnel and be able to provide them with information (i.e., condition of suspect(s), injuries).

Identify anyone having contact with the injured party (ambulance personnel, family of victim) – **call for help if needed.**

MAINTAIN SCENE INTEGRITY

No smoking, by anyone, permitted inside scene area.

Do not turn water on or flush toilets.

Obtain log of names of **ALL** personnel who entered crime scene area.

Preserve and protect footprints/tire tracks, etc.

Begin "Call Up", per Department Procedures. Provide **call back** number where you can be contacted. **DO NOT USE THE TELEPHONE IN THE SCENE.**

Investigation Personnel Call Up.

Notify and request District Attorney staff.

Request San Mateo County Crime Lab.

Press Information Center

ADDITIONAL SUSPECTS COUNTY BROADCASTS

Radio broadcasts on outstanding suspects, vehicle and witnesses.

Code 666 – County roadblock requested?

Update information to Communications.

IMMEDIATE EVIDENCE CONCERNS

Protect/preserve perishable evidence.

Gunshot Residue (GSR) on suspects, victims and any possible parties involved.

Identify and secure all scene:

Isolate immediate crime scene area with crime scene tape. Make the area large with generous perimeters (area can always be reduced later).

Determine escape or chase routes. Arrange to isolate relevant scenes.

Secure suspect, victim or involved vehicles.

Be prepared to adjust crime scene boundaries outward if necessary.

Limit entry into all scene(s) to absolute minimum. Only essential persons allowed inside the scene.

Arrange for a Scene Log to be started to record every entry and exit into any of the scenes documented. All persons entering identified.

INVOLVED OFFICER(S)

Involved Officer(s) with guns in possession or at the scene:

Leave in holster. The entire gun belt will be collected by investigations personnel in order to protect trace evidence.

If weapon is not in the officer's possession at scene, leave weapon(s) in place, **untouched,** if safe.

Arrange to have officer(s) photographed as they were at the time of incident

WITNESS OFFICER(S)

Have Shooting Officer(s) and 'Witness Officer(s) taken to the station by independent officer(s).

All involved officers (shooting and Witness) sequestered with independent/peer support until investigators interview.

Order all officers **NOT TO DISCUSS** with each other about the incident (except to legal counsel).

CIVILIAN WITNESSES

Locate, identify and sequester all civilian witnesses at the scene.

Photograph the crowd and scene, if possible

Start an **AREA CANVASS** for additional witnesses, locating relevant vehicles, weapons, etc.

Give specific directions to canvass officers. Use Area Canvass Form is possible.

Determine what responding officers have learned and what they have done – ask for updates

Arrange your thoughts and be prepared to brief investigators when they arrive.

OIC Complete.pdf

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San Mateo County Police Chief's and Sheriff Association

Officer Involved Critical Incident

SAN MATEO COUNTY
POLICE CHIEFS & SHERIFF ASSOCIATION
OFFICER INVOLVED CRITICAL INCIDENT

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SAN MATEO COUNTY
POLICE CHIEFS & SHERIFF ASSOCIATION

OFFICER INVOLVED CRITICAL INCIDENTS

I. PURPOSE OF THE PROTOCOL

A. Officer Involved Critical Incidents are complex and demanding, with profound consequences for the many involved parties. The public and the involved officer(s) require that a fair, thorough and objective investigation be conducted. Where different agencies are involved, differences in policy, procedure, personnel, resources and interests can conflict, hamper or delay the investigative process. The purpose of this protocol is to establish countywide guidelines for the investigation of Officer Involved Critical Incidents in San Mateo County. The goal of these guidelines is to insure that such cases are fully and fairly investigated, and that proper dispositions of such cases are made based upon all the legally available and relevant evidence.

B. The goal of an Officer Involved Critical Incident investigation is to:

1. Determine the identity of all involved parties;
2. Determine the identity of all known witnesses at the time of the incident;
3. Gather facts surrounding and preceding the critical incident, including historical knowledge that the involved officer has with the area or involved party(s), facts relevant to the actions of the involved officer during the critical incident, and facts relevant to post-incident activity of the involved officer;
4. Collect and preserve evidence and scene security;
5. Adhere to all legal requirements, orders, and notifications regarding the investigation, evidence collection and processing; and
6. Collect all evidence and information necessary to the determination of whether criminal activity has occurred;
7. Distinguish between the administrative investigation (conducted by the Venue Agency), and the critical incident investigation (conducted by the Assisting Agency);
8. Commence as soon as practicable after the critical incident, and upon conclusion of the investigation be submitted to the District Attorney's Office for review as expeditiously as possible.

II. DEFINITIONS

A. Officer Involved Critical Incident (OICI)

Any incident in which a peace officer or custodial officer, as defined in Penal Code section 830, acting under color of authority, on-duty or off-duty, is directly involved in the following:

1. Discharge of a firearm by an officer which proximately causes death or injury to another, whether discharge is intentional or accidental;
2. Intentional use of any deadly or dangerous weapon by an officer which proximately causes death, or injury likely to produce death to another;
3. An intentional act on the part of an officer, which proximately causes death or injury likely to produce death to another.
4. Any death of a person while in custody or under an officer's control.
(Excluded from this protocol are post-booking deaths of prisoners which occur in jails, hospitals or other facilities while the prisoner is under the custody and care of a law enforcement agency medical care

provider for diagnosed diseases or conditions which have been known and monitored and/or treated by the agency's medical care provider prior to death, and only when the deaths were medically expected and when custodial suicide, trauma, accident, or use of intoxicants was not involved.)

B. Peace Officer and Custodial Officer
   1. Local law enforcement officers defined by Penal Code, 830.1 (e.g., Municipal Police, Sheriff, D.A. Inspectors, Coroner Investigators and Probation Officers) and Reserve Officers and Reserve Deputies defined by Penal Code 830.6
   2. Custodial Officers defined by Penal Code §831.5 (e.g. Correctional Officers)
   3. State Officers, (e.g., CHP, DOJ, University Police, Parole Officers)
   4. Federal Agents, (e.g., FBI, BATFE, U.S. Marshall, I.C.E., DEA)

C. Venue Agency
   The agency with geographic jurisdiction over the critical incident, and who assumes primary investigative responsibility over the Preceding Incident.

D. Preceding Incident
   The activity which occurred immediately prior to the Critical Incident which preceded or provoked the Critical Incident.

E. Employing Agency
   The law enforcement agency which employs the involved officer.

F. Assisting Agency
   The law enforcement agency or entity that is responsible for conducting the critical incident investigation.

G. Officer Involved Critical Incident Team (OICI-T)
   The Officer-Involved Critical Incident Team (OICI-T) is a specialized investigative unit which is comprised of pre-identified and trained law enforcement personnel from various law enforcement agencies within San Mateo County and personnel from the San Mateo County District Attorney's Office, which may be called-out to assist in the investigation.

H. Incident Commander
   The person(s) supervising the initial incident during the onset of the investigation. This person may be the most experienced supervisor or highest ranking command officer at the scene, at the discretion of the Venue Agency.

III. JOINT INVESTIGATIVE RESPONSIBILITY

The responsibility for conducting a critical incident investigation is shared between the Venue Agency and the District Attorney's Office Investigations Bureau. The Venue Agency will take responsibility for the investigation of the Preceding Incident. For any incident involving members of a County Task Force, the Sheriff (or his designee) and Venue Agency Chief will jointly decide on establishing the best investigative line of responsibility for investigating the Preceding Incident. The District Attorney's Office and Venue Agency will jointly assume responsibility for the investigation of the critical incident.

San Mateo County Protocols, Agency General Orders, Policies and more detailed 'check-lists' are at the disposal of responding entities when the immediacy for quick and decisive actions have settled into planned and structured activities for a lengthy investigation. Therefore, when dealing with the immediacy of an Officer Involved Critical Incident, investigators should follow certain guidelines, including, but not limited to the following areas:

A. Duties of Venue Agency upon initial response:

1. Secure the scene and preserve evidence without moving or changing its final resting place or original condition; identify all involved parties, and locate all witnesses to the event pending the arrival of the Incident Investigators.
2. Identify an Incident Commander during the onset of the investigation. This person(s) responsibilities may include; but are not limited to:
    a. Coordinating adequate response of sworn personnel for the magnitude and intensity of the incident; making assignments commensurate with the responsibilities for the desired outcome; and,
    b. Communicating and coordinating the assignments and actions to be taken by the first responding supervisors to the scene; and,
    c. Conducting the initial 'field-briefing' with arriving on-scene Incident Investigators and advising them of: 1) actions taken at that juncture, 2) actions or activity in-progress (witness canvass, etc.), and 3) any exigent or emergency circumstances existing that need immediate investigative action.
3. Consult with the District Attorney (or his designee) to determine if the OICI-T needs to be activated. The District Attorney, in consultation with management of the District Attorney's Office, will make the final determination whether assistance of the OICI-T is necessary.
4. Summon the San Mateo County Forensic Laboratory. A Venue Agency Investigator, sworn designee, or agency evidence collection specialist will work with the County Forensic Lab member(s) and assist in identifying and coordinating the collection and preservation of evidence.
5. When the proximate cause of death or injury is a vehicle, the Venue Agency may, depending on the circumstances and complexity of the investigation, seek the assistance of an outside agency with vehicle incident reconstruction expertise, i.e. CHP.
6. The Office of the Sheriff maintains primary responsibility for the investigation of incidents that occur or emanate from:
    a. Within the buildings or secured grounds of detention or correctional facilities;
    b. Within the buildings or secured grounds of Court Facilities;
    c. On San Mateo County Sheriff Transit equipment and property, except out of county incidents in San Francisco and Santa Clara County.

B. Duties of Involved Officer(s)

1. Maintain officer safety for any existing and changing conditions;
2. Identify medical aid needed for self and/or other officer(s), victim(s), witness(es) or suspect(s);
3. Suspect apprehension and/or BOLO;
4. Identify immediate needs and/or threats;
5. Consider safety of responding officers: provide safe paths for response/resources;
6. Notifications as needed;
7. Provide a public safety statement to a supervisor when requested.

C. First Officer(s) on-scene

1. Provide medical aid to all parties;
2. Suspect apprehension and/or BOLO;
3. Initiate Code 666 – County Roadblock requested, if appropriate;
4. Coordinate initial safe response of incoming officers and/or medical aid;
5. Establish a basic perimeter;
6. Scene security and evidence preservation;
7. Identify potential witnesses;
8. Protect and/or preserve perishable evidence for systematic collection;
9. Photograph any dynamically changing conditions in their original form;
10. Make initial notifications to working supervisor as needed;
11. Update Communications as conditions change or new information becomes available.

D. First Supervisor on-scene

1. Coordination of incoming units: response to scene or staging area;
2. Assessment of personnel needs based on the magnitude of the incident;
3. Initiate Code 666 – County Roadblock requested, if appropriate;
4. Verify first responder critical tasks completed;
5. Assess the adequacy of the initial perimeter and adjust as needed;
6. Confirm that a Crime Scene Log has been established and review its completeness when time allows;
7. Coordinate canvass and isolate witnesses, from each other;
8. Separate and isolate involved parties, including officers;
9. Arrange for transportation of Involved Officer;
10. If possible, alert the appropriate POA, PSA, etc. of the need for legal representation;
11. Do not disarm the officer in the field. If officer is actively engaged in suspect apprehension or involved in a dynamic field situation, remove the officer from the situation only when safe and practical;
12. When incident circumstances allow, obtain a Public Safety Statement. This statement is very specific as to the questioning and should address only Public Safety concerns and is not a violation of Police Officer's Bill of Rights (POBR). (See Exhibit "B" for an example)
13. When circumstances allow, admonish any involved/subject officer to refrain from emailing, sending text messages, making cellular telephone calls or social media posts to other Department employees who may be subjects or witnesses…before they are formally interviewed;
14. Request for Incident Investigator to respond;
15. Establish the Incident Command (I/C) and set-up a Command Post with separate and isolated media area for the PIO;
16. Provide adequate Command Post security during volatile incidents;
17. Make or confirm specific notifications have been made: intra-department; County Communications for District Attorney's personnel "on-call"; County Forensic Lab; and Coroner's Office when a death is involved.

E. First Responding Command Officer On-Scene

1. Verify on-scene supervisor(s) have adequate resources on-scene, or responding, to perform immediate critical tasks and insure their continued and successful completion;
2. Address any critical life/death issues of involved officers(s);
3. Assess adequacy of initial perimeter, adjust as needed;
4. Confirm proper agency specific notification have occurred;
5. Assess Venue Agency investigative responsibility with input from the involved Chief or Sheriff;
6. Maintain and activate investigative responsibility protocol;
7. Defer investigative responsibility regarding critical incident to District Attorney Inspectors or OICI-T;
8. Provide support and assess the need for replacement resources as appropriate;
9. Ensure sustenance and well-being of involved officers has been established;
10. Address media concerns/issues and prepare for in-field interview(s).

F. First Responding Venue Agency Incident Investigator or OICI-T Lead

If not provided during the initial notification, the lead law enforcement individual notified will make telephone contact with the on-scene supervisor or command officer and determine:

1. Life/death status of suspect(s) and/or involved officer(s);
2. The number of involved officers and their location(s);
3. The magnitude and static/dynamic criticality of the incident;
4. The number of witnesses and their location(s);
5. Confirm notification has been made to the Coroner and Crime Lab and their ETA;
6. The presence of on-scene media;
7. Meet with the Incident Commander and receive an on-scene briefing;
8. Identify the current condition and location of all Involved Officers, injured witness, and suspect(s);
9. Walk-Through of the Scene;
10. Identify investigative needs;

11. Adequate investigative personnel activated for magnitude of the incident;
12. Specialized investigative capabilities identified and requested;
13. Emergency (arrest/search) warrants, protective orders or border notifications identified for legal issues;
14. Activation of SWAT as determined by apprehension threat assessment;
15. Coordinate evidence and Crime Scene responsibilities;
16. Coordinate and record in-field witness statements for parties unable to respond to a dedicated interview location with individual voluntary photographs of the witness for later inclusion in the investigation report.

G. Duties of Responding District Attorney Personnel

1. A District Attorney Inspector will respond to all OICI scenes.
2. In the event of an OICI fatality, an attorney member of the homicide on-call team will respond to provide legal assistance as needed.
3. The District Attorney Investigations Bureau will assume responsibility for the OICI investigation.
4. The District Attorney (or his designee), in consultation with District Attorney management, will determine whether the nature of the OICI requires the activation of the OICI-T. If it is determined that the OICI-T is necessitated, the District Attorney will activate the OICI-T. A Senior Inspector or Chief Inspector will work under an established Unified Command structure with the Venue Agency to assume joint command responsibility over the OICI-T in the investigation of the critical incident.

IV. SCENE PROCEDURES PENDING THE ARRIVAL OF OICI INVESTIGATORS

A. Emergency Transportation of Injured Parties**:** Emergency life saving measures will always have the first priority. If the officer or suspect is transported to a medical facility with injuries, an officer should accompany that person in the same vehicle for the following purposes:

1. Provide security for medical personnel;
2. Preserve, safeguard and maintain the chain of evidence;
3. Continue to obtain statements and document any spontaneous statements made to medical personnel;
4. Obtain a dying declaration statement;
5. Maintain custody if the suspect is under arrest, ensuring the preservation of his/her clothing and possessions; and
6. Provide information to and receive information from the medical personnel. (If airlifted, immediate response to the hospital is required).

B. Crime Scene Access**:** Pending arrival of the Venue Agency Incident Investigators, the scene(s) should be secured immediately, with a perimeter established for each scene a sufficient distance away to safeguard the integrity of the investigation and protect evidence.

1. Access should be limited to only those who must enter for official reasons;
2. When not needed for life saving efforts, entry by fire and ambulance crew members should also be limited to those whose presence is necessary;
3. A log, started as soon as possible, should be kept of the identities of all persons entering the scene, the time of their entry and exit, and the reason for the entry of each.

C. Crime Scene Stabilization/Evidence Preservation/Witness/Suspect Statements

1. Crime scene security and evidence collection
   a. Initial crime scene security is the responsibility of uniformed law enforcement personnel on-scene. A well-established perimeter, 360-degrees, needs to be clearly established with "crime scene tape" for enforcement of laws that pertain to a designated and maintained active crime scene;
   b. Dictated by incident circumstances, security of the police/fire Incident Command Post (ICP), should be considered;

c. The emphasis on evidence should be that of preservation and protection with the mindset of methodical collection at a later time. The exception to this rule is evidence that may need immediate collection to preserve its evidentiary value due to changing field conditions: wind, rain, roadway traffic, etc.

2. Removal of Involved Officer from Critical Incident Scene

a. An officer's safety, medical well-being and separation from other involved officers shall be one of the most important parts of the first responder's investigation once the situation has become 'static.'
b. Once the situation has become 'static', the Involved Officer(s) shall be relieved from his/her enforcement responsibilities.

3. Viewing of video and audible recording

a. Care should be given to not allow the Involved Officer(s) to view any video or audio recordings captured on any device before the first interview by the incident investigators. If it is believed that suspect or other critical information may have been captured on Department video capture equipment, the Assisting Agency personnel should review and document the presence or absence of this evidence. After the initial interview with the involved officer, and with the concurrence of the officer(s) legal counsel, review of any collected video will be done at a later time during a follow-up interview(s). An **exception** to this condition, on a case-by-case basis and with the approval of the officer's counsel, would be when the officer's assistance is needed to timely confirm the identity of a fleeing suspect to the incident and the officer has not begun or completed his/her primary interview.
b. The admonishment and review of any audio/video recordings shall be recorded as part of an official interview process. Under the **exception** clause for any review of audio/video recording to assist in identifying a fleeing suspect, reasonable effort should be made to audio record the officer's comments on his/her observations. An appropriate admonition for the Involved Officer who reviews recorded evidence is included in Exhibit #C.
c. Individual Department Policy shall govern the designated timeframe for which individual recording devices worn by the involved officer(s) or in-car cameras on vehicles operated by the involved officer(s) are turned off and downloaded for evidence. Individual Department policies for agencies equipped with body or vehicle recording devices are included in Exhibit #F.

D. Crime Scene Management

The Venue Agency has the responsibility for securing the crime scene and coordinating evidence collection with the County Forensic Lab, including processing evidence from the Involved Officer(s). Those responsible for coordinating the collection of evidence with the County Forensic Lab should consider; but not limit themselves to the following factors for the initial on-scene evidence identification, preservation, and eventual collection by the County Forensic Lab:

a. Care should be given to maintain the crime scene as close to its original condition as when officers first arrived. If alterations to the scene are known to have been made by other parties (fire, paramedics, etc.) prior police arrival and stabilization, especially movement of the deceased, proper notation should be made in the officer's reports indicating the altered condition. Other existing or altered scene conditions are equally important to document, i.e., open or closed doors, windows, yard gates, on or off conditions for: light switches and lamps, television, computer, radio, fans, etc.
b. Initial law enforcement personnel on-scene should take as many photographs as needed to document any existing or changing conditions that may be altered prior to the arrival of the OICI Investigators and County Forensic Lab evidence collection team. Physical evidence at the scene that is in danger of being contaminated, destroyed or removed, must be properly observed, documented (photographed), and effectively protected for subsequent collection;
c. Venue Investigators should work with the County Forensic Lab to identify all the different types of evidence needing to be collected, the methodology for documentation, and the process to be used for collection, before the first piece of evidence is processed;

d. After the evidence is identified for collection:
    1. Photograph and video record the original condition of the crime scene before collecting any evidence.
    2. Establish a collection priority and methodology that does not destroy surrounding or remaining evidence to be collected.
    3. Move from least disturbing evidence collection (alternate light source evidence identification, alternate light photography, digital room capture photography, sketching, measuring, etc.) to the more destructive (casting, black or magnetic powder printing, digging, etc.).
e. Use the proper packaging and preservation methodology that will best preserve the evidence in its present state with concern for destruction, cross-contamination and decay, during/after collection and preservation.

E. Evidence Collection of the Officers' Uniform and Equipment by Venue Agency

a. Great care shall be taken to not collect or disturb evidence at the scene belonging to the involved officer(s). Any clothing or equipment found at the crime scene should remain in its original location, photographed and protected as needed, and await proper evidence documentation and collection at a later time by those assigned to evidence collection. The same preservation applies to the officer's vehicle or other modes of transportation.
b. Collection of the officer's equipment, which is still on his/her person, shall be done after the officer leaves the scene and is safely isolated.
c. Photos should be taken of the officer at this isolated location with his/her equipment on their person as it was when they engaged in or concluded the incident. After photos and documentation of the clothing and equipment has been properly obtained, the evidence can be collected and turned over to the County Forensic Lab for evidentiary processing. No effort should be taken to alter the condition of the officer's physical appearance (blood removed, hair groomed, etc.) or his/her clothing or equipment cleaned or rearranged from what was present in the field.
   In the event an officer is transported to the hospital, his/her clothing and all equipment should be collected and later photographed by the County Forensic Lab as soon as reasonable. Proper GSR evidence collection should be done as soon as practical but without interference in emergency medical treatment for the injured officer(s). All evidentiary attempts or collections should be appropriately documented. Department equipment (weapon(s), safety equipment, badge, etc.) not needing to be retained for investigative review or criminal proceedings, may be returned to the department after appropriate testing and documentation. The final decision for extended retention rests with the OICI Investigator and District Attorney's Office. If the officer is deceased, the uniform clothing and safety equipment will need approval from the Coroner to be transferred to the County Forensic Lab for evidentiary processing.
d. Reequipping the officer with an appropriate replacement weapon and carry equipment will be at the discretion and responsibility of the officer's employing agency.

F. Suspect Evidence Processing

a. Safeguard all evidence found on the suspect and document where found;
b. Photograph suspect as appropriate to document evidence;
c. Remove shoes and bag prior to transporting to Agency, consider preserving trace evidence;
d. If GSR testing is anticipated, bag hands before transportation and collect evidence before fingerprinting or washing hands;
e. Collect all suspect clothing (Agency or hospital) and preserve for County Forensic Lab; and
f. Biological evidence will be collected at the direction of the Incident Investigator from the Venue Agency.

G. Initial Civilian Witness Statements

a. Those interviews which are needed prior to the initial response of the Primary Investigator shall be documented and, whenever possible, digitally recorded. Officers taking statements of witnesses shall adhere to common practice within San Mateo County and those protocols where witness statements are defined.
b. Officers are encouraged to obtain permission from Primary Witnesses to be transported to the department for recorded interviews. Officers should explain to witnesses that their cooperation to be transported to the Police Department is strictly voluntary and reassure them that their time at the department is not a detention and they are free to decline the invitation or leave at any time.
c. Witnesses with specific recollection or observations of the incident that are identified on a canvass will have their specific position(s) of observation(s), validated by the officer. This will be accomplished by the officer placing him or herself in the exact place and/or position(s) identified by the witness as being their point(s) of observation, and provide documentation on their own observation capability.

H. Canvass For Civilian Witnesses And Discarded Suspect Evidence

a. The officer or supervisor designated as lead to conduct a canvass for witnesses and possible suspect discarded evidence should provide a field briefing for responding resources to adequately familiarize them with the circumstances of the incident, suspect description(s) and any officer safety concerns, including instructions on what to do if a key piece of evidence or material witness is located;
b. Canvassing officers should utilize the a Canvass Form
c. All completed Canvass Forms should be turned into the designated canvass lead and made available to the Incident Investigator at the conclusion of the canvass.

I. Suspect Interviews

Formal interviews of the involved suspect(s) should be left to the OICI Investigator. In every case, the suspect should be immediately separated from other involved parties to the incident upon first contact by patrol or when determination is made as to any potential involvement as a suspect. Care should be taken to not Mirandize the suspect or solicit a statement. **However**, every effort should be taken to record spontaneous statements and discussions made freely between the suspect and any other persons.

J. After Action Procedures

As soon as practical, but no later than the conclusion of the supporting officer's shift, every officer not interviewed by the OICI investigators, but who performed any activity associated with te incident, will write a supplemental report documenting the extent of their activity and have it signed off by a supervisor.

V. INTERVIEWS WITH PEACE OFFICER AND CUSTODIAL OFFICER EMPLOYEES

The Incident Investigator Team, comprised of Investigators from the Venue Agency or OICI-T and D.A. Inspectors, will conduct joint interviews with involved officers, custodial officers and those identified by the Incident Investigator as 'primary witness officers' to the incident. The Incident Investigator from the Venue Agency will coordinate with the lead D.A. Inspector on who will participate in the interview of any involved officer or witness officer; including where and when the interviews will take place. This may also include voluntary removal by the Venue Agency Investigator from directly participating in any interview of a primary or witness officer from the Venue Agency organization, as determined by a pre-established Agency policy or at the direction of the Agency Sheriff or Chief.

To insure that all appropriate information is being obtained to satisfy the varied organizational interests monitoring the interview(s), investigators should, at the appropriated time, consult with the monitoring entities to see if the information they need to address their individual responsibilities are, or have been addressed, by the interview direction. During the interview of the Involved Officer(s), Investigators ***may elect*** to use a pre-designated questionnaire as part of their approach to obtain basic information from one or multiple participants before beginning direct questions about the specific actions of the officer(s). (See Appendix F for interview checklist questionnaire)

1. The Involved Incident Officer(s) and Primary Witness Officer(s) will not be required to write a report documenting their activity during the incident. Both groups of officers will have their statements taken by the Incident Investigators, who will document their statement through digital recordings for inclusion in the investigative report. The Involved Incident Officer(s) will be allowed to have the presence of Counsel during this interview, if so desired. The following are considerations for managing the interactions of Counsel during the interview process:
   a. Counsel consultation should not be allowed to materially impede the investigation; however, the Incident Investigators shall allow reasonable preparation time by the Involved Officer's counsel.
   b. Counsel should be permitted to consult with only one Involved Officer at a time, if they are representing more than one officer.
   c. To insure the integrity of each interview, it is important that statements about the incident not be relayed through such representatives; rather, the Involved Officer and other witness officers should answer the questions directly even if they need to consult with their representative prior to answering.
2. If prior to or during the interview, it is deemed that an Involved Officer may be charged with a criminal offense, ***and the interview becomes custodial***, the Involved Officer shall be immediately informed of his/her constitutional rights pursuant to the *Miranda* decision. (POBR 3303h)
3. To insure the voluntariness of an interview with an Involved Officer that has not reached the level of a custodial interrogation, the investigator may wish to advise the involved officer he/she is not in custody and is free to leave the interview
4. Prior to the interview of any involved officer the Investigative Interview Teams should endeavor to review all available incident reports, audio/video recordings from police vehicle in-car cameras, TASER-CAM cameras, personal body cameras worn by responding officers, and any independent recording sources (i.e. cellular phone and other video surveillance).
5. Interviews of an Involved Officer and Primary Witness Officer to an incident should, at a minimum, be audio recorded, and best practice would dictate the interview should be video recorded as well.
6. Employing Agency representative(s) will be permitted to remotely monitor the interview or have timely access to any recording made of the interview.
7. <u>Officer "Walk-Through" of the Crime Scene</u>

   On a case-by-case basis, the Incident Investigator may direct the officer to do a walk-through" of the crime scene. The Incident Investigator will determine the timing of the "walk-through," which should not impede the on-going investigation and evidence collection. If a "walk-through" of the crime scene is granted, it should be recorded with both video and audio capabilities and done with the officer's counsel present. In addition, an admonition to the principle parties should be given which discusses and identifies possible changes to the crime scene from the time of the event or other factors which may be present at the time of the "walk-through" that differ from those factors present at the time of the incident.

   If more than one officer to the event is requested to do a "walk-through," it will be done one officer at a time and out of view of any media presence or recording capability to maintain best evidentiary value. Refer to Exhibit D – Admonition.

8. <u>Exhaustion, Sustenance and Length of Questioning</u>

   An Officer Involved Critical Incident is one of the most stressful and time-consuming incident an officer may encounter. The emotional and physiological effects of an event of this magnitude will often be taxing on all involved parties. Care should be taken to weigh the need to obtain an immediate statement with the need to maintain the involved parties' well-being. While it is always a good idea to obtain a statement immediately following the incident, there may be times when allowing one or all of the involved parties to obtain sleep and sustenance prior to the interview.

   Care should be given to the length of the interview. Officer Involved Incident Investigations are usually lengthy and very time consuming. Often times, the interviewee is required to stay in seclusion for long periods of time. This, too, will add to the length of time it will take for the process to be completed. The Incident Investigators must take measures to address the length of an investigation and its interview while maintaining the aforementioned officer's wellness.

The Incident Investigators should never short-cut the investigation, but time management is the responsibility of the Incident Investigator. Open lines of communication are necessary during the entire investigation and the involved officer(s) and their representatives should be kept aware of delays and provided on-going updates on the investigation. Maintaining this balance of communication will assist with the investigation and establish trust and transparency with all involved parties.

If unique circumstances or individual department policy dictate interviews of the Involved Incident Officer be conducted at a later time, that decision should be a collaborative one between the Involved Officer, his/her counsel and the OICI Investigators. "Reasonable preparation" with an Involved Officer's Counsel shall be permitted and each case should be evaluated on a case-by-case basis with all parties equally informed as to the necessity and gravity of this action; prior to the final decision being made. Officers, who are allowed to provide interview information at a later time based on the influential event circumstances or policy conditions used to evoke this decision, should be advised not to discuss the circumstances of the case with anyone or subject themselves to sources of information that would alter their understanding or perception of the incident.

VI. OFFICER PLACEMENT ON ADMINISTRATIVE LEAVE:

It will be the responsibility of the officer's employing agency Chief or Sheriff to make the determination and arrangements for placing the involved officer(s) on administrative leave. Additionally, assignment of a replacement firearm, if the weapon was preserved for evidence, will be at the discretion and responsibility of the officer's employing agency**.**

VII. INTOXICANT TESTING

During an Officer-Involved Critical Incident, intoxicant testing should be pursued. The following options are available for obtaining biological samples:

A. As soon as practical, obtain a blood sample for alcohol and/or drug testing with the Involved Officer's valid consent; or
B. Obtain the sample(s) by ordering the employee officer to provide such sample(s) based upon the employer-employee relationship; or
C. Obtain a blood sample for alcohol and/or drug testing pursuant to a search warrant; or
D. Obtain a blood sample for alcohol and/or drug testing incidental to the arrest of that person for a crime where criminal culpability has been determined; or
E. If the Employing Agency asks for a biological fluid sample for administrative purposes after the Incident Investigators have either been unable to obtain a sample or have decided against obtaining one, the Employing Agency will be accommodated as much as possible. The Employing Agency's efforts to obtain a sample should not interfere with the Incident Investigation.
F. An employee officer may volunteer to provide a biological fluid sample for intoxicant testing even if the Incident Investigators and Employing Agency have not ordered one. Similarly, a person from whom the Incident Investigators or the Employing Agency has taken a sample may wish to have a second sample taken for independent testing. Such requests should normally be accommodated, with the understanding that the employee officer requesting the test will bear any expense for sample collection and testing.

VIII. CELLULAR PHONES, SMART PHONES AND OTHER SOCIAL MEDIA

Cellular phones, Smart Phones and other Social Media equipment, even if the personal equipment of the officer, may be subject to discovery during an investigation. In that regard, officers should be mindful not to send pictures, text messages, emails, communicating by way of cellular telephone or sending social media posts to other department employees who were involved in the incident between the time of the incident and the time an interview occurs. Individual agencies should establish policies regarding:

1. When and how an officer may use the aforementioned devices while on duty;

2. Evidence collection, documentation and photographing of a Critical Incident while using such devices;
3. Viewing and documenting such items of evidence which are contained within the aforementioned devices;
4. Adopting policies which address the use and documentation of such investigations within or on Social Media sites.
5. The collection of evidence located within the Involved Officers personal phone, if any; keeping in mind the Peace Officer's Bill of Right (POBR) and constitutional rights afforded to him/her under the California and United States Constitutions.

IX. CORONER, PATHOLOGIST AND AUTOPSY

The role and notification of the Coroner in incidents that result in a death investigation are clearly stated within the San Mateo County Police Chiefs Association "Deaths to the Coroner Protocol." Without exception, all aspects of this protocol will be followed as it is in any other death investigation; particularly the procedures outlined in "Officer Involved and In-Custody Deaths."

A. The Coroner is to be notified immediately and provide on scene examination of the deceased and arrange transportation for the deceased to the coroner's facility.

B. Pathologist Briefing

The Pathologist should receive a full and complete briefing prior to the post-mortem examination. The briefing should include all relevant information available at that time which may tend to aid in determining cause, manner and means of the decedent's death, including the condition of the body when first discovered or secured. To address concerns related to evidence cross contamination, every effort will be made to leave physical evidence in police property or County Forensic Lab storage and bring representative photographs of evidence as needed.

If weapons, ligatures, clothing, footwear, jewelry, medications (in their original containers), poisons, intoxicants, instrumentalities for injection, etc. are brought to the briefing, the Criminalist or Incident Investigator, if in police evidence, will assure items of evidence are properly packaged and sealed to avoid trace evidence cross-contamination. If relevant video recording is available, a copy should be brought to the briefing. The agency bringing items of evidence to the briefing will normally retain custody of those items.

These additional factors shall be included in the briefing:

1. Relevant observations made at the scene.
2. Relevant witness statements.
3. An accounting of items and evidence removed from the body.
4. An accounting of any changes in the position of the body since its discovery.
5. An accounting of any obvious visible changes in the body since first viewed.
6. Any Police Agency reports available and reports of the Deputy Coroner.
7. Photographs and sketches available at the time of autopsy.
8. Verbal briefing by Coroner's Deputies.
9. Verbal briefing by Criminalists or Evidence Technicians.

C. Autopsy

1. All persons attending an autopsy are required to sign the Coroner's Office logbook.
2. At least one member of the Incident Investigation team shall attend the autopsy.
3. A designated photographer shall attend the autopsy. No audio or video recording of an autopsy shall be allowed without the express prior permission of coroner and pathologist.
4. Attendance at an autopsy by persons other than Coroner's Office personnel is subject to the approval of the Coroner (Government code §27491.4). The number of people attending an autopsy must be kept to a minimum due to space limitation, evidentiary considerations, and the need to eliminate distractions.

5. Persons attending an autopsy are present to observe the findings and to collect and record evidence. The extent of their contact with the body will be governed by the pathologist.
6. Investigators should bring GSR test kits and fingerprint evidence collection equipment if collecting this type of evidence.
7. Incident Investigators should bring all evidence marking and packaging materials to collect evidence
8. Those attending will be asked to adhere to safety guidelines in order to minimize exposure to biohazards. Different standards will apply to those who will be in contact with the body versus those who will only view.
9. Until the pathologist has inspected the body and given approval, the body at the morgue shall not be disturbed nor its condition altered in any of the following illustrative ways:
    a. Movement or removal of clothing
    b. Movement or removal of any weapon or object
    c. Collection of hair strands
    d. Collection of gunshot residue that is associated with wound sites
    e. Clipping or scraping of fingernails
    f. Washing or cleaning
    g. Fingerprinting
    EXCEPTION: Without the pathologist's approval, fingerprints may be taken from the deceased when all the following criteria are met:
        - There is immediate and serious need to identify the decedent which cannot be satisfied by postponing fingerprinting until after autopsy;
        - There is no trauma to the areas of the fingers and hands which will have to be manipulated;
        - The fingers and hands are photographed before being disturbed;
        - The hands and fingers have been examined for trace evidence including gunshot residue, if applicable, and it has been photographed and collected if present. The collection of trace evidence from areas of the body not directly involved with trauma is permissible without the pathologist's approval; and
        - Insure that palm prints are collected.
10. Photography of the body (without disturbing it) is encouraged. The County Forensic Lab is available to assist in taking high-quality photographs if the agency is unable to provide a photographer. The agency must make arrangements with the Lab in advance. Note: Civil Code of Procedures §129 prohibits photographing deceased bodies except for law enforcement purposes.
11. Autopsy attendees who take notes or make diagrams of autopsy results are strongly urged to use great diligence to insure that their notes and diagrams of the pathologist's findings and opinions are accurate by consulting with the pathologist as the notes are prepared.

X. NEWS MEDIA RELATIONS AND PUBLIC INFORMATIONAL ALERT - BLUE ALERT

A. Media Relations

A representative of the Venue Agency is in the best position to comment about the facts of the case and the progress of the investigation. When multiple agencies are involved or have knowledge of an Incident, the following information release guidelines should be followed:

1. The Venue Agency will assign a particular individual to be the sole contact with the news media to manage the release of information and to minimize interruptions to incident investigators. If this is not feasible, a particular job assignment (e.g., Watch Commander) should be designated. If the Venue Agency has turned over Venue Agency Investigative Responsibility to another agency or the OICI-T, the assigned PIO from the Investigative Agency or the OICI-T and PIO from the officers employing agency should jointly address media issues and discuss the impact and timeliness for release of information to the Media, including Social Media releases.
2. If Incident Investigators determine that the release of a specific piece of information would materially jeopardize the investigation, they shall notify those agencies possessing that knowledge of the hazards of releasing it.

3. Agencies and individuals that are not well informed and intimately involved with the investigation's results and progress should not make statements to the press. As in all other instances, care must be taken to insure that intentionally misleading, erroneous or false statements are not made.
4. The interest of the public's right to know what occurred must be balanced with the requirements of the investigation and in applicable situations, the right of the accused to receive a fair trial. The guidelines for release of information are not intended to impede any Sheriff or Chief from their duty and responsibility to provide timely and relevant information to the communities they serve on police policy and/or procedures when it is needed to add clarity and understanding for the actions of their officers or how the incident will be investigated. This may be especially true when the employing agency is not the venue agency.
5. Information obtained from the Incident Investigators or from the Involved Agencies will not be released by the Coroner's Office without prior clearance from those agencies. Release of information will generally be limited to the following: Autopsy findings, including the condition of the deceased, the cause of death, and toxicology test results, after the involved agencies have received this information. The Coroner's Office will not release any information to the media where there is a pending criminal prosecution.
6. Once the investigation is completed, and the case is referred to the District Attorney's Office for review, any further media inquiries should be referred to the District Attorney's Office.
7. In the spirit of involved agency cooperation, it is recommended that all involved parties to the investigation be apprised in advance of any formal press release or press conference through a "Courtesy Statement" email detaining the content of the proposed release of information or press conference presentation content.

B. Blue Alert

California's Blue Alert program was created in 2011 to establish a quick response system designed to issue and coordinate alerts following an attack upon a law enforcement officer. The goal of a Blue Alert is to provide immediate information to the public about a violent suspect via media broadcasts and other notification resources to solicit help from the public in the safe and swift apprehension of a person who could harm others or escape prosecution for their crime.

Criteria for a Blue Alert

- A law enforcement officer has been killed, suffers serious injury, or has been assaulted with a deadly weapon and the suspect has fled the scene.
- A law enforcement agency investigating the offense has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.
- A detailed description of the suspect's vehicle or license plate is available for broadcast.
- Public dissemination of available information may help avoid/prevent further harm or speed the apprehension of the suspect.
- The Emergency Alert System is not used for a Blue Alert. However, Changeable Message Signs, Highway Advisory Radio, APBNet (Critical Reach fliers), Internet sites, and the Emergency Digital Information Service are used to share the license plate number or a vehicle and suspect description so that the public can help authorities locate the suspect.

XI. ACCESS TO REPORTS AND EVIDENCE

Material created or collected by the Venue Agency's Incident Investigators, as well as by any other assisting agencies, will be made available in a timely manner upon completion of the investigation to those agencies which have a "need to know" and which are legally authorized to receive the information. The material may include:

1. Reports written and collected.

2. Physical evidence obtained.
3. Photographs and diagrams.
4. Recordings.

The agencies with an interest in the Officer-Involved Critical Incident Investigation may include:

1. Investigating agencies.
2. The employer of any Involved Officer.
3. The District Attorney.
4. The Crime Laboratory.
5. The Coroner's Office.

XII. FINAL ACTION

The Officer-Involved Critical Incident Investigation should ideally be completed within 60 days from the time all reports have been submitted to the Office of the District Attorney including the County Forensic Lab review and evaluation of the evidence, absent any unusual circumstances.

At the conclusion of the investigation, the Office of the District Attorney will review and analyze all the evidence to determine whether the officer acted lawfully.

Exhibit A
Organizational Chart

San Mateo County Officer-Involved Critical Incident Investigative Organizational Chart

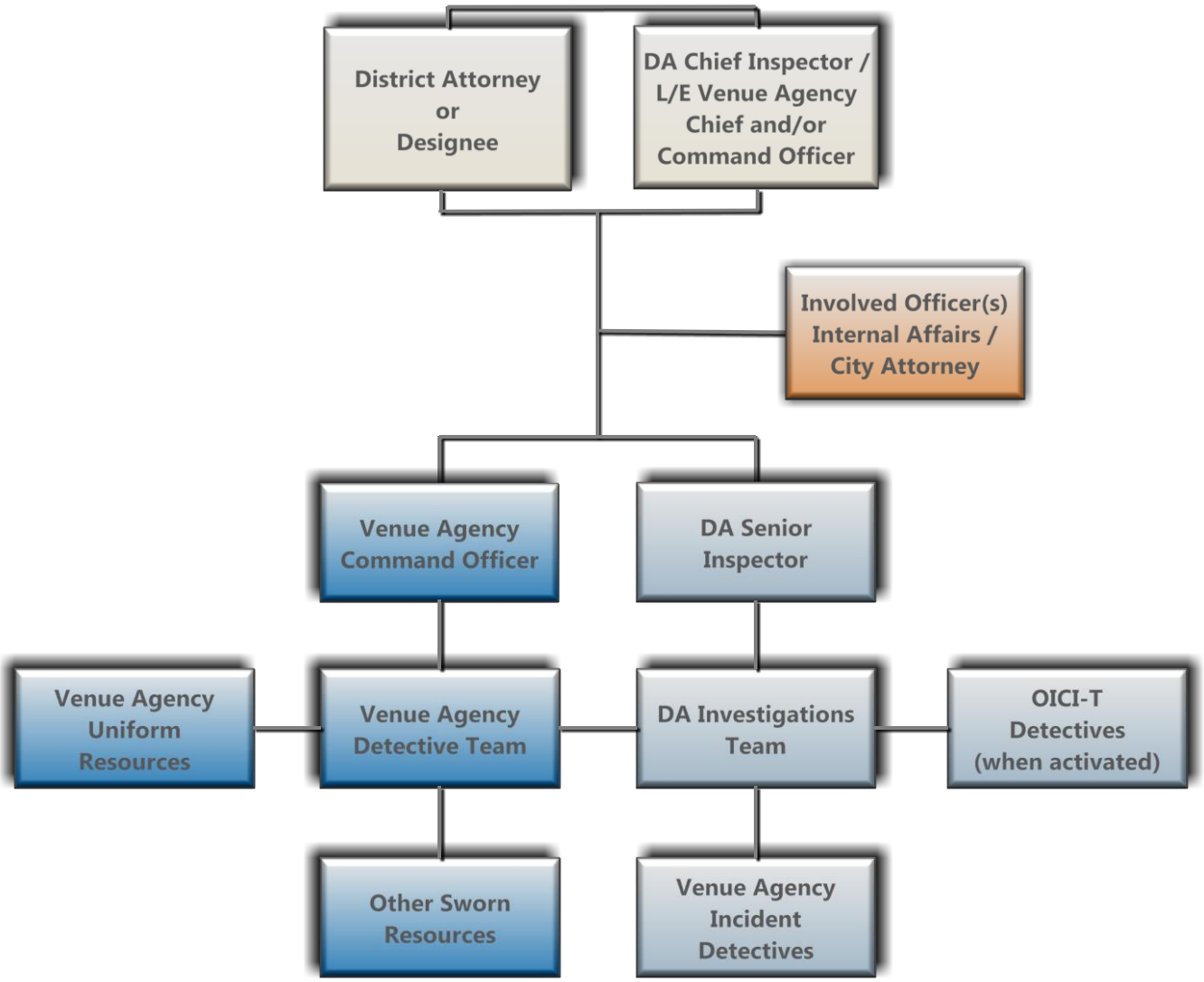


Exhibit B

Public Safety Statement

A supervisor requesting information from an involved officer at the scene of an Officer-Involved Critical Incident should be clearly defined and limited in scope so as not to violate POBR. With that in mind, the supervisor should request the officer provide information similar to:

a) Identify the extent of the crime scene(s), including all weapons and evidence
b) Identify anyone injured and their location
c) Identify the type of weapon(s) used
d) Identify the number of rounds fired and direction from each weapon
e) Identify or describe witnesses
f) Identify or describe outstanding suspects/vehicles, including direction of travel, elapsed time, weapon information, and nature of crimes

Exhibit C

Video/Audio Evidence Review Admonition

In this case, there is video evidence that you will have an opportunity to view after you have given your initial statement. Video evidence has limitations and may depict the events differently than you recall, and may not depict any or all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident. You should not feel in any way compelled or obligated to explain any difference in what you remember and acted upon from what viewing the additional evidence provides you. If listening to audio recordings or viewing video recordings provides additional clarity to what you remember that is fine; if it doesn't, that's fine too.

Exhibit D

Scene Walk-Through Admonition

Primary and witness officers who have completed their initial interview and agree to participate in a walk-through of the scene or multiple scenes should consider that certain conditions of the scene(s) will have changed from the time of the incident. Conditions in lighting, weather, sound levels, vehicle placement, landscaping, removal of obstacles or debris and the like may have changed substantially from the time of the incident and **may or may not** provide you with additional insight into the incident. Remember, the walk-through is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident. You should not feel in any way compelled or obligated to explain any difference in what you remember and acted upon from what walking the scene provides you. If walking the scene provides additional clarity to what you remember that is fine; if it doesn't, that's fine too.

Exhibit E

Mandatory Notification on Death of Prisoner or Arrestee

The following statutes outline mandatory death notification procedures involving the death of a prisoner or arrestee:

GOVERNMENT CODE SECTION 12525

Report of Prisoner Death

In any case in which a person dies while in the custody of any law enforcement agency or while in custody in a local or state correctional facility in this state, the law enforcement agency or the agency in charge of the correctional facility shall report in writing to the Attorney General, within 10 days after the death, all facts in the possession of the law enforcement agency or agency in charge of the correctional facility concerning the death. These writings are public records within the meaning of subdivision (d) of Section 6252 of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), are open to public inspection pursuant to Sections 6253, 6256, 6257, and 6258. Nothing in this section shall permit the disclosure of confidential medical information that may have been submitted to the Attorney General's office in conjunction with the report except as provided in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(Amended by Stats. 1992, Ch. 529, Sec. 1. Effective January 1, 1993.)

CALIFORNIA PENAL CODE SECTION 5021

Death Occurring in Certain Facilities, Report Requirements

(a) Any death that occurs in any facility operated by the Department of Corrections and Rehabilitation, the State Department of State Hospitals, a city, county, or city and county, including county juvenile facilities, or any facility which is under contract with any of these entities for the incarceration, rehabilitation, holding, or treatment of persons accused or convicted of crimes, shall be reported within a reasonable time, not to exceed two hours, of its discovery by authorities in the facility to the county sheriff, or his or her designated representative, and to the coroner's office, of the county in which the facility is located, as provided in Section 27491 of the Government Code. These deaths shall also be reported to the district attorney, or his or her designated representative, of the county in which the facility is located as soon as a representative of the district attorney's office is on duty. If the facility is located within the city limits of an incorporated city, the report shall also be made to the chief of police in that city, or to his or her designated representative, within a reasonable time, not to exceed two hours, of its discovery.

Any death of a person in a facility operated by the Department of Corrections and Rehabilitation shall also be reported to the Chief of Medical Services in the Central Office of the Department of Corrections and Rehabilitation, or his or her designated representative, as soon as a representative of that office is on duty.

(b) The initial report of the death of a person required in subdivision (a) may be transmitted by telephone, direct contact, or by written notification, and shall outline all pertinent facts known at the time the report is made and all persons to contact, in addition to any other information the reporting person or officer deems pertinent.

(c) The initial report of the death of a person as required in subdivision (a) shall be supplemented by a written report, which shall be submitted to the entities listed in subdivision (a) within eight hours of the discovery of the death. This written report shall include all circumstances and details of the death that were known at the time the report was prepared, and shall include the names of all persons involved in the death, and all persons with knowledge of the circumstances surrounding the death.

(Amended by Stats. 2012, Ch. 24, Sec. 49. Effective June 27, 2012.)

Exhibit F

Individual Agency Equipment for Automatic Audio/Video Recording with Policy for Stop and Download
2014

	Body Worn Camera System		In-Car Camera System	
Agency	**Yes**	**No**	**Yes**	**No**
Atherton Police Department		No		No
B.A.R.T. Police Department	Yes			No
Belmont Police Department		No		No
Brisbane Police Department		No		No
Burlingame Police Department		No		No
California Highway Patrol		No		No
Colma Police Department		No		No
Daly City Police Department		No		No
East Palo Alto Police Department		No		No
Foster City Police Department		No		No
Hillsbrough Police Department		No		No
Menlo Park Police Department	Yes			No
Pacifica Police Department		No		No
Redwood City Police Department		No		No
San Bruno Police Department		No		No
San Mateo County Sheriff's Office		No		No
San Mateo Police Department		No		No
South San Francisco Police Department		No		No

Exhibit G

Questionnaire for Involved Officer

	INTRODUCTION
	Video and Audio Recording as available • Advise of: Date/ Time/ Location of interview • Who is present (self introductions if appropriate) their reason for attending. • Interview format, lead investigator. • Voluntary interview, confirm the officer has not been ordered to talk to you.
	BACKGROUND
	Officer name and agency ID number?
	How long have you been in law enforcement?
	Which agencies have you been employed by?
	Which assignments have you worked?
	How long have you been employed by your current agency?
	What is your current assignment?
	What other assignments have you held in your current agency?
	Do you have secondary employment, outside employment?
	Are you attending schooling outside of your department requirements?
	Are you right or left handed? Do you have a dominant hand?
	Which side of your body is your holster located/TASER/Secondary weapon?
	PRE-INCIDENT INFORMATION (ON DUTY)
	• Were you on duty at the time of the incident? (If off duty move to next section Pre-Incident Information off duty)
	What time did your shift begin today?
	What time did you arrive for work?
	What was your duty assignment?
	Are you assigned to a specific area?
	Were you driving your "normally" assigned vehicle?
	Were you working with a partner? Who? Do you normally work with a partner? Who?
	What clothing were you wearing when you started your shift? Specific outerwear.
	Who was your direct supervisor today?
	Was this your normal shift/assignment?
	When did you complete your last shift?
	When did you last sleep?
	How long did you sleep?
	What time did you wake up to start your day?
	How did you feel when you started your shift?
	How was the time off prior to your work shift?
	What type of calls have you handled today?
	Were any of the calls you responded to high stressed? • Fights, pursuits, etc.
	How was your shift prior to the incident? Have you ever handled a call for service in the area, or location?

	What were they and how did they conclude?
	Are you aware of any prior calls to the area or location?
	What was the nature of the call and how were they concluded?
	Are you aware of any officer safety issues associated to the area, location?
	Have there been any law enforcement bulletins specific to the: area, person, vehicle, etc.?
	Have you had previous contact with the person, family members or gang associates?
	What were they and how did they conclude?
PRE-INCIDENT INFORMATION (OFF DUTY)	
	When did you work your last shift?
	How many days have you been off of work?
	When did you last sleep?
	How long did you sleep?
	What were you doing prior to the incident?
	Were these your normal days off?
	What clothes were you wearing just prior to the incident?
	During your last work shift, were any of the calls you responded to high stress?
	What have you been doing during your time off?
	What type of safety equipment do you carry?
INCIDENT	
General Question	
	Please tell me from the start to the end what happened?
	• Awareness of use of force escalation • State of mind • In fear for life of self or others.
Specific Questions	
	How did you become involved in this incident?
	• Dispatched? • On-View/Self initiated? • Cover call?
	Where were you just prior to the incident?
	What were you doing?
	What can you remember regarding the radio traffic?
	What was your route of travel to the location?
	Were you familiar with the location/individual prior to arrival?
	What did you know about the location/individual prior to arrival?
	What did you see when you arrived at the location?
	Where did you park?
	Who did you see when you arrived?
	What were they doing?
	Who were they with?
	How did you approach the incident (on foot)?
	What happened next? Step by step • What was the subject doing? • What type of contact did you have with the subject prior to discharging your weapon? • What did the subject do? • Why did you discharge your firearm? • How many times did you discharge your firearm? • How much time between discharges?

	• What were you aiming at? • What was behind the intended target? • Were your shots having an impact on the subject(s) actions? • How far were you from the intended target? • Please show me how you were discharging your weapon? • Why did you stop firing?
	POST-INCIDENT
	What happened immediately after the incident?
	What do you remember doing after you stopped discharging your weapon?
	Specifically: • Radio traffic • Securing subject • Provide aid • Rescue others
	Who else was present when the incident occurred?
	What were they doing?
	If the subject was armed, do you know what happened to the weapon?
	Did you provide a "Public Safety" statement? To who?
	Who have you told about the incident?
	Did you have a recording/electronic device that possibly recorded any of the incident?
	Are you aware of "any" recording/electronic device that possibly recorded any of the incident?
	VISION
	Do you wear corrective lenses? If yes, were you wearing corrective lenses at the time of the incident?
	How is your vision?
	What was the lighting at the time of the incident?
	Was there anything obstructing or impairing visibility?
	IDENTIFICATION
	What type of car were you driving?
	How is it painted?
	Any specific markings?
	What was the car number?
	Was the emergency equipment functioning properly?
	Were you wearing a uniform?
	Describe your outermost clothing?
	Were you wearing a jacket? Describe
	Were you wearing a hat? Describe
	What part of your clothing and car identifies you as law enforcement?
	Did you identify yourself as a police officer? How? • Verbally, what did you say? • Appearance, how?
	Do you believe the subject knew you were an officer? • How do you know? • Was there verbal recognition or a visual clue?
	PHYSICAL CONDITION

	Do you have any injuries from the incident? How did they occur?
	Did you have any injuries prior to the incident? How did they occur?
	Do you need any medical assistance at this time?
	Was your equipment/uniform damaged during the incident?
	Have you consumed alcohol in the last 24 hours? • How much? • When? • When was the last time you consumed alcohol? • What was it?
	Have you taken any medication in the last 24 hours? • Was it prescribed? What is it for? How often? • Was it over the counter? What is it for? How often? • Was any of the medication unlawful? What is it for? How often?
	Do you feel any of the effects of the medication? What are they? Normal?
	SAFETY EQUIPMENT
	What equipment do you carry on your person while on duty? • Radio • Baton/full size/expandable • OC spray • Taser • Duty firearm • Secondary firearm • Handcuffs • Flashlight • Audio recorder • Video recorder • Ballistic vest • Other
	What safety equipment did you use at the time of the incident?
	What type of firearm do you carry? Make-Model-Caliber
	When was the last time you qualified with it?
	How long have you used this specific firearm?
	What type of ammunition did you have in your firearm, department Issued?
	How was your weapon loaded, how many live rounds, including in the chamber?
	When was the last time you cleaned your weapon? Besides today have you fired it since the last cleaning?
	If firearm used, what firearm did you discharge today? • When was the last time you qualified with it?
	Have you had your weapon modified in any way?
	Have you had any of your equipment modified in any way?
	TRAINING
	Have you received any specialized training in: • Verbal judo, negotiations, tactical communications, CIRT? • First Aid • Drivers training, EVOC • Weapons training, SWAT, Marksman
	Do you have any prior military experience?

	• Where were you deployed? • Were you involved in a lethal use of force in combat?
	FOLLOW UP
	Is there anything you feel I should know about this incident that will help me understand what occurred?
	Counsel, do you have any questions you wish to ask or answers you feel need clarification?
	Officer, do you have any questions of me, or of the process which is taking place.

Exhibit H

Field Investigation Guidelines Check-off List

See attached document

SAN MATEO COUNTY
POLICE CHIEFS & SHERIFF ASSOCIATION

OFFICER INVOLVED CRITICAL INCIDENTS CHECKLIST 2014

Exhibit H

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Initial Notification to Homicide Investigator by field Commander or Supervisor* *Information may Include: *(all information may not be immediately available but should be aggressively sought, for staged notification)* ☐ Event Number: ☐ Location: o Street address; or ☐ GPS coordinates: open field, train tracks, waterway, shoreline, etc. ☐ Time of call or time of discovery: ☐ Time of death and agency pronouncing: police, fire paramedics ☐ Approximate time Victim may have been deceased: ☐ Recent (no visible lividity) ☐ Several Hours (some lividity) ☐ Several Days (bloating, etc.) ☐ Extensive Time (decomposition) ☐ Reporting Party location: ☐ Victim(s) relationship with Suspect(s) ☐ Victim(s) deceased or pending: number ☐ Victim(s) name, age, sex and race ☐ Victim(s) location: ☐ At one scene ☐ At multiple locations within one jurisdiction ☐ At multiple locations & jurisdictions ☐ Dismembered and at multiple scenes ☐ Killed at one scene, located at another ☐ Hospital ☐ Deceased Victim(s) apparent modality of death: ☐ Body force: fist, feet, etc.	

☐ Beat with blunt object ☐ Shot ☐ Stabbed ☐ Strangled ☐ Asphyxiated ☐ Drowned ☐ Hanged: rope, wire, clothing, etc. ☐ Beat with blunt object or other tools ☐ Fall from structure ☐ Hit, run over, or drug by vehicle, etc. ☐ <u>Deceased Victim(s)</u> use of weapons on Suspect: ☐ Body force ☐ Handgun ☐ Rifle ☐ Shotgun ☐ Knife ☐ Other objects or tools, etc. ☐ <u>Pending Victim(s)</u> apparent modality of death, pending death pronouncement: ☐ Body force: fist, feet, etc. ☐ Beat with blunt object ☐ Shot ☐ Stabbed ☐ Strangled ☐ Asphyxiated ☐ Immersion in water ☐ Hanged: rope, wire, clothing, etc. ☐ Beat with blunt object or other tools ☐ Fall from structure ☐ Hit, run over, or drug by vehicle, etc. ☐ <u>Pending Victim(s)</u> use of weapons on Suspect, pending death pronouncement: ☐ Body force, defensive wounds ☐ Handgun ☐ Rifle ☐ Shotgun ☐ Knife ☐ Other objects or other tools ☐ <u>Suspect(s) Deceased (number)</u>: ☐ <u>Suspect(s) Deceased</u>: ☐ name ☐ age ☐ sex ☐ race ☐ Eye color, glasses Yes/No	

☐ Hair: color, style, etc. ☐ Facial hair: mustache, goatee, beard ☐ Tattoos: type(s), location(s), etc. ☐ Clothing description ☐ Noticeable physical deformity, scars ☐ Visible injuries ☐ Weapon(s) in their possession: type ☐ <u>Suspect(s) Deceased</u> : apparent modality of death: ☐ Suicide ☐ Body force: fist, feet, etc. ☐ Shot ☐ Stabbed ☐ Strangled ☐ Asphyxiated ☐ Beat with blunt object ☐ Fall from structure ☐ Hit, run over, drug by vehicle, etc. ☐ <u>Suspect(s) Living</u> : *in-custody* description: ☐ Name ☐ Age ☐ Sex ☐ Race ☐ Eye color, glasses Yes/No ☐ Hair: color, style, etc. ☐ Facial hair: mustache, goatee, beard ☐ Tattoos: type(s), location(s), etc. ☐ Noticeable physical deformity ☐ Possible injury type and location ☐ Clothing: ☐ Hat or cover: color, style, logo? ☐ Jacket: color, style, logo? ☐ Shirt: color, style, logo? ☐ Pants: color style, length ☐ Belt: Color, style, buckle with logo? ☐ Socks: color, prison style ☐ Shoes, sandals, or absence of ☐ <u>Suspect(s) Living</u> : *at-large* description ☐ Name: and any DOJ, RIMS Numbers ☐ Age ☐ Sex ☐ Race ☐ Eye color, glasses Yes/No ☐ Hair: color, style, etc. ☐ Facial hair: mustache, goatee, beard ☐ Tattoos: type(s), location(s), etc. ☐ Noticeable physical deformity, scars	

☐ Possible weapon(s) in their possession ☐ Possible injury type and location ☐ Clothing: ☐ Hat or cover: color, style, logo? ☐ Jacket: color, style, logo? ☐ Shirt: color, style, logo? ☐ Pants: color style, length ☐ Belt: Color, style, buckle with logo? ☐ Socks: color, prison style ☐ Shoes, sandals, or absence of ☐ <u>Suspect(s) transportation</u> left at scene or used to escape: ☐ On foot: Last Direction of Travel (DOT) ☐ Car, truck, van ☐ License number and state ☐ Manufacture ☐ Model ☐ Height: standard, lowered, raised ☐ Color: Exterior and interior ☐ Visible damage, location & extent ☐ Signs or writing on exterior ☐ Tinted or clear windows ☐ Window decals or rearview mirror hanging objects ☐ Special wheels or hubcaps ☐ Motorcycle ☐ License number and state ☐ Manufacture ☐ Color ☐ Unique features: fairing, bags, etc. ☐ Bicycle ☐ Style: Mountain, 10-speed, etc. ☐ Color ☐ Taxi, Bus, Train, etc. ☐ Weapon(s) or instrumentalities used by <u>Suspect</u> to kill Victim(s) ☐ Handgun ☐ Rifle ☐ Shotgun ☐ Knife ☐ Sword ☐ Blunt object: pipe, bat, etc. ☐ Other objects or tools ☐ Drowned ☐ Strangulation: hands ☐ Gassed: vehicle CO-2 emissions ☐ Hanged: with rope, wire, clothing, etc. ☐ Drug induced: injection, pills, etc.	

☐ Forced alcohol consumption ☐ Poison ☐ Suspect(s) disfigurement of Victim(s) ☐ Complete dismemberment ☐ Body parts removed: fingers, hands, feet, teeth, ears, etc. ☐ Sexual organ(s) removed or damaged ☐ Fetus cut out of deceased ☐ Carving of symbols on body ☐ Excessive damage to the face when probable cause of death was a result of another injury ☐ Suspect(s) attempt to cover up killing ☐ Arson or Explosive: body, structure, vehicle, vessel, etc. ☐ Dissolving chemicals on body ☐ Buried: in ground, in structure, etc. ☐ Dumped in remote area, at sea, etc. ☐ Number of Witnesses needing to be interviewed and their names and location (field, hospital, PD) and contact Info. **Incident Investigator receipt of notification:** ☐ Record exact time(s) notification received and who called ☐ Record type code of call: homicide, murder-suicide, etc. ☐ Record location of event ☐ Record initial information provided by field supervisor or command officer calling ☐ Record arrest time(s) and location of suspects, any juvenile arrest issues ☐ Time death was pronounced (by whom) ☐ Request CAD transcripts and copy of 911 transmissions as well as Radio Dispatch tapes and incoming calls are being preserved and confirmed ready for Investigator pick up ☐ Notifications as needed	

☐ Has Coroner been notified, ETA ☐ Anticipate walk through for viewing of body. **Incident Investigator will direct Coroner to body on arrival ☐ Based on the information provided conduct personnel assessment needs and activate the correct amount of resources ☐ Insure FBI LEO VCC has been started or detective responding to office will start **Incident Investigator arrival at Scene:** ☐ Ensure Crime Scene Log has been established, check in ☐ Update BOL's and confirm if Code 666 broadcast has been initiated, if needed ☐ Contact on-scene Supervisor or Incident Commander and be briefed on any changes or updates on information initially provided or requested ☐ Attend to any medical needs of associated victims, witnesses or suspects ☐ Verify police, fire, or medical personal pronounced death and no signs of life exist. ☐ Verify names and contact information have been collected for fire or medical personal ☐ Verify a canvass for witnesses and video surveillance has been initiated and note who is assigned as lead point-of-contact ☐ Verify if "canvass form" is being used for documentation of contacts ☐ Instruct canvass team to verify all witness points of observation by standing in the exact position of observation and make independent observations on what was observed, heard, smelled, etc. ☐ Document time of witness observation ☐ Direct canvass forms to be turned into	

Incident Investigator(s) as soon as completed and reviewed ☐ Update the perimeter containment and expand/reduce locations if needed ☐ Obtain location and number of identified witnesses ☐ Obtain location and condition of suspect(s) if arrested ☐ Record outside elements of the crime scene (e.g.) lighting, temperatures, rain, daylight, etc. ☐ Take initial photos needed to show future interviewees ☐ <u>DO NOT USE PERSONAL CELL PHONE</u>! ☐ If victim has been transported from crime scene, verify someone is with the body ☐ Identify who found the body, touched the body or moved the body (for later interviews) ☐ Speak with the Reporting Party (RP) or eyewitnesses to obtain an initial idea of what occurred if they are still in the field. ☐ Assign officers to conduct canvass for vehicles parked in close proximity of the crime scene. Consider using LPR vehicle. ☐ If deceased parties (victim or suspect) are in open exterior areas that are easily viewable by the passing public, place temporary cloth or canvass walls around the body, or any barrier to obstruct view ☐ If the deceased parties are local public or private school attendees, and the school year is in session, notify school administrators for possible student grieving counselors, if needed ☐ If any child was taken by the suspect after the killing (parent, guardian, or other) authorize any Amber Alert notification	

☐ Brief the assigned D.D.A. or D.A. Investigator on any pending legal assistance needed for search warrants, arrest warrants, and other court orders as deemed appropriate ☐ Notify N.C.R.I.C. of any potential border crossing into Canada or Mexico issues ☐ Notify local airports of suspect information and pending escape ☐ If appropriate, provide license plate information to NCRIC (ALPR) database administrator and or airport parking management administrator ☐ If financial instruments (credit cards, etc.) are taken, do not deactivate and make sure they are not immediately listed as stolen (for activity tracking) ☐ If suspect vehicle is fitted with FasTrak®, make notifications to appropriate agency (phone number here) ☐ If suspect vehicle is equipped with On-Star or other tracking devices: Lo-Jack, Sirius Radio, etc., request assistance as appropriate ☐ If the suspect has other mobile electronic devices with tracking capability (phones, computers, etc.) request assistance as appropriate ☐ Other **<u>Incident Investigator Team crime scene viewing:</u>** ☐ Conduct a field briefing prior to walk-through with field supervisor and fill in any missing information from the initial notification briefing or requested info. ☐ Ideally Crime Lab should be present ☐ Coroner may be present but not necessary for walkthrough ☐ Check in with the log officer	

☐ Wear gloves and medical cloth booties ☐ Avoid contamination and try not to touch items within the crimes scene ☐ <u>Limit the amount of people entering into the inner crime scene and perimeter</u> ☐ Consider dedicated ingress and egress paths so as not to disturb evidence ☐ Take notes and initial pictures for future interviews ☐ Identify potential evidence for collection ☐ Look for signs of forced entry and/or point of entry ☐ Look for point of exit ☐ Observe the condition of the crime scene(s): disorganized, organized, staged, cleaned up, etc. ☐ Consider possible alibis and defenses to this particular crime scene ☐ No smoking or chewing tobacco within crime scene ☐ Avoid the use of cellular phone within the crime scene ☐ Conduct a basic sketch showing door, windows, lights, etc. within the crime scene and position(s) of the body(ies) ☐ Do not disturb the final resting position of the deceased (victim or suspect) or conduct any search for evidence or identification. The deceased body belongs to the Coroner ☐ Conduct exit briefing with patrol supervisor and discuss: ☐ Duration of crime scene containment ☐ Return time for evacuated people ☐ Anticipated arrival of Crime Lab and when perimeter can be reduced or broken down ☐ Coroner removal of body(ies) time ☐ Where to direct news media questions after Investigators have departed	

- Crime Lab Briefing by Incident Investigator at scene:
- Should start with initial walkthrough
- Identify all present
- Discuss a macro to micro strategy for identification, collection, preservation of identified evidence
- Discuss methods for locating and identifying before collection:
- Simple point and identify
- Field grid search
- Alternate light source viewing
- Powder dusting for latent prints
- Other
- Discuss methods for collection, packaging, tagging, preservation
- Agree or determine division of labor:
- Who will be responsible to collect, package and store different types of evidence after jointly identified
- Who will conduct secondary processing on unique evidence and submit for analysis
- Who will process living suspect or associated incident victim/witness
- GSR
- Trace evidence
- Sexual Assault Evidence Kit
- Clothing
- Other

Crime Scene Processing and Evidence Collection with County Forensic Lab Personnel:

- Coordinate all crime scene evidence "division of labor responsibilities" for collection and methods of processing with the Crime Lab through a formal briefing with Incident Investigators

- Maintain appropriate crime scene security for integrity of evidence preservation

- Coordinate body removal with Coroner

- All evidence collected will be documented on one evidence collection log kept and maintained by the police department investigating the homicide. The log will be a complete reference for collection and

tracking of evidence; where stored (temporarily or permanently); who is maintaining custody; what is being considered for additional processing (ballistics, chemical analysis, DNA, etc.). Any change in the status of evidence will need to be reported to the police department for accurate record updates □ Criminalist and Homicide Investigators shall work together to ensure "chain of evidence" rules are followed to maintain the chain of custody log □ Through a crime scene briefing and walkthrough with the Crime Lab, establish the following: □ Photograph and video record the original condition of the crime scene before collecting any evidence □ Establish a collection priority and methodology that does not destroy surrounding or remaining evidence to be collected □ Move from least disturbing collection: □ Physical viewing □ Alternate light source viewing □ Alternate light photography □ Digital room capture photography □ Sketching □ Measuring, etc. □ To more destructive collection: □ Casting □ Black or magnetic powder dusting □ Disassembly of items □ Rearranging area for access □ Digging, etc. □ Use proper packaging and preservation methodology that will best preserve the evidence in its present state with concern for destruction, cross-contamination or decay; during/after collection and preservation □ Establish a drying procedure for wet/blood soaked clothing, carpet, furniture, vehicle interior, etc. □ Photograph and preserve evidence which can be lost or damaged due to inclement	

weather as soon as possible ☐ Document surrounding vehicles, their positions and plates, use LPR vehicle if available, **<u>NOTE: Have NCRIC save the information in a designated file specific to the investigation</u>** ☐ Ensure the "legal standing" of involved parties and need for search warrants ☐ Notes and/or notebooks should be collected and kept within the case file ☐ Establish an evidence log ☐ <u>Every case</u> will have an identified evidence collector or "finder" to assist with collection and documentation of all evidence. ☐ Ensure a canvass for all evidence, witnesses and additional clues has been completed ☐ Video collection shall be completed. Also consider cellular phone video footage ☐ Document all blood stains evidence via a photograph and/or video documentation ☐ Measure and record all evidence in relation to fix objects ☐ Record arrival times and departure times of all persons within the crime scene via the Crime Scene Log of Evidence Log ☐ Forensic Specialists called to the scene should follow established "best practice" collection procedures and establish an internal check list for evidence collection ☐ Criminalist called to the scene shall work with the lead Homicide Investigator to identify items needed for collection and processing through a formal briefing ☐ Items such as police weapons (guns, tools, etc.) should be given priority for processing. These items should be returned as soon as possible to their rightful owners	

☐ Other **Preliminary Investigation Considerations:** ☐ ***When investigating an <u>Officer Involved Critical Incident</u>, reference the San Mateo County Officer Involved Critical Incident Protocol and <u>Addendum "A"</u> to this checklist for additional investigative guidance.*** ☐ Consider legal assistance such as search warrants, need for on-call DDA, etc. ☐ Identify "issues of standing" or search warrant(s) needed to process crime scene ☐ Consider schedule for interviewing Identified <u>witnesses</u> at Station; times they have been waiting, juvenile considerations for parental notification ☐ Identify location and condition of suspect(s) (In Custody vs. not In Custody) and time lapsed from initial arrest for legal phone calls ☐ Identify other involved parties ☐ Identify additional resources needed ☐ Uniformed Patrol ☐ Street Crimes, SWAT ☐ Incident Investigators ☐ Special language skills ☐ Crime scene processors ☐ Make or update necessary notifications	

☐ Determine the scope of your general crime scene and the need to expand/contract perimeter tape, or how many crime scenes there are and distances apart ☐ Consider briefing information needed by PIO for Media release ☐ Other ***Involved Officer(s) Interview and Processing*:** ***When Investigating an Officer Involved Critical Incident, Investigators shall reference the San Mateo County *Officer Involved Critical Incident Protocol* for additional information and details.** ☐ **For interviews and processing of Involved Officer(s), reference the San Mateo County Officer Involved Critical Incident Protocol; Section VII and Section VIII for additional guidance** ☐ **When practical and safe conditions exist, remove the officer from their field responsibilities and transport the Involved Officer(s) to the police department, or other secured facility** ☐ **Address medical attention immediately** ☐ **Before departing the incident area, allow the Involved Officer to take notes while at the scene but respect the need to maintain crime scene preservation and do not allow officer(s) to reenter the crime scene** ☐ **Verify that the Involved Officer(s) is with another person and has been separated from other involved parties** ☐ **Ensure the officer has been provided an opportunity to meet with their proper**	

representative(s) ☐ **Ensure photos of the have been taken as he/she was dressed at the time of the incident** ☐ **Have the Crime Lab respond or a certified evidence technician to collect the officer's equipment and uniform** ☐ **Photograph all relevant injuries to the officer after the uniform is removed. Use proper evidentiary photographic collection processes, i.e. macro to micro, one without and one with ruler device when appropriate** ☐ **Take steps to comply with all POBR issues** ☐ **Allow the involved officer the opportunity to speak with their attorney, if requested** ☐ **Ascertain if a public safety statement was made/taken from the involved officer and identify who took this statement** ☐ **The Involved Incident Officer and Primary Witness Officer will not write their own reports as an account of the incident. Incident Investigators will interview each involved officer and have their recorded statements entered into the record at a later time** ☐ **Use a standardized "question and answer" format while conducting the interview *(Use the San Mateo County Officer Involved Critical Incident Protocol for sample questions)*** ☐ **Have a 'rough' scene diagram or photos to use within the interview** ☐ **Allow agency I.A. administrative representative or others with**	

responsibilities to the investigation a location to view the interview in a designated area. **Only two Incident Investigators and the officer's Counsel should be in the interview room** **Avoid leading or suggestive questions of the officer during the interview** **Ask clarifying questions** **Establish the officers years of experience, assignments, basic and specialized training and basic background during the interview to establish the "reasonableness" of his/her actions based on their training and experience** **Ask about the officer's well-being (i.e. sleep patterns, normal work shift, medications used, etc.)** **Confirm at what time during the officers work day the incident occurred and when that last time they slept in reference to the start of their shift** **Discuss the officer's uniform of the day (if this was an undercover operation, what is the uniform)** **If this was a pre-planned event, discuss operation plans, briefing and other pertinent conversations. Were they part of the briefing?** **Address whether this is a voluntary statement and/or forced statement by the officer employee - employer relationship (Lybarger ?)**	

☐ **If needed, address Miranda** ☐ **Address the issue of police jargon and nomenclature not known to the general public** ☐ **At the conclusion of the initial interview, have the officer's employing agency representative, Chief, or Sheriff place the officer on 'administrative leave"** ☐ **After the initial interview is completed and a different interview is scheduled to view video or listen to audio recordings, provide an admonishment to the officer prior to viewing that video pursuant to current protocols outlined in the San Mateo County Officer Involved Critical Incident Protocol.** ☐ **Insure the opportunity has been offered and or scheduled for a critical incident stress debriefing session**	

Witness Interviews and Processing:

- Inform witnesses of their importance but ability to leave if this becomes an issue
- Identify the location(s) of witnesses
- Prioritize witness interviews
- In reverse order of importance
- Any juvenile considerations
- Emotional issues of witnesses (e.g. related or close friends with the victim)
- Cell phone connectivity restrictions or use to aid in identifying other witnesses or suspect, including possible location
- Set up process to monitor Social Media
- Digitally record interview (Required)
- Video recording of interview is also preferred, but not required
- Complete Witness Interview sheet with photograph
- Make sure to ask the, "Who, What, Where, When, Why and How questions"
- Go over the witness's sensory information
- Remember cell phone video capture and social media information downloads collection or preservation, on voluntary basis if appropriate; otherwise search warrant!
- Consider recordings of crime in progress, etc. on witness phone that may be displayed on Social Media, You Tube, etc.
- Consensual DNA Bucal Swab, Prints; explain for elimination purposes!
- Obtain exact witness location to determine actual view point and perspective
- Witness Identification of Suspect
- Describe circumstances on how

Identification was made ☐ Known to witness ☐ Infield show up ☐ How conducted ☐ Timeframe when conducted ☐ Distance from suspect when viewed ☐ Lighting conditions ☐ Any staging of clothing ☐ Any utterances performed ☐ Hospital show up ☐ Same viewing considerations ☐ Photograph viewing and what type used: booking or non-booking, etc. ☐ Person showing photographs ☐ What allows witness to be able to identify suspect ☐ How was identification made ☐ Memorialize complete identification process in officer(s) reports ☐ Consider witness statement is untruthful because of: ☐ Relationship to victim ☐ Relationship to suspect ☐ Dislike or mistrust of police ☐ Fabricated for self-importance ☐ Religious restrictions on cooperativeness ☐ At this point they are an unidentified suspect ☐ Inform witness that they will need to remember what they told the police and it may be many years before trial. Help them with a memory connectivity methodology to remember what they provided, i.e., witness can remember suspect because he/she looks like somebody they already know ☐ Coordinate Sketch Artist session, if appropriate **<u>Suspect Interviews and Processing:</u>** ☐ **Suspect(s) location**	

☐ **Complete suspect I/D sheet** ☐ **Consider suspect connectivity to other homicides or serious crimes in or out of area and notify associated detectives for joint or informed interviews** ☐ **Verify how positive identification was obtained (via eyewitness and/or photo line-up)** ☐ **Audio (required) and Video recording recommended** ☐ **Consider Case Strategies (i.e. interview and release/Ramey Warrants/Ruse, etc.)** ☐ **Detention time limits** ☐ **<u>Juvenile time limitations</u>** ☐ **No more than two detectives at a time in interview** ☐ **Custodial or Non-custodial Interviews** ☐ **<u>Juvenile Interview Time Limitations</u>** ☐ **Juvenile Booking (Charge as an adult or not)** ☐ **Miranda Issues** ☐ **Dying declarations** ☐ **Diminished Capacity Considerations** ☐ **Consider pre-text phone calls** ☐ **Evidence Collection** ☐ **Full photos of suspect with clothing on and off to identify injuries.** ☐ **Complete detailed identification and photo mapping of all tattoos, body piercing, self-mutilation, etc.** ☐ **Rape Kit evidence collection** ☐ **Strip Search, if needed, on a large piece**	

of butcher paper or equivalent **GSR Collection (do not allow suspect to wash hands)** **DNA Bucal collection** **Specimen Sample – Blood preferred for felony arrest, Urine for certain drugs.** **Search Warrants for DNA Mapping and body cavity searches** **Cell phone and email collected** **Social Media Log-In names and passcodes** **Consider Social Media and Internet subscriber "Preservation Letters"** **Birth place** **Next of Kin** **Origin of family (i.e. County and State(s)** **At booking, consider separate holding cell** **Coordinate "immediate" jail phone recording and archiving; monitor connectivity and log of activity** **Monitor jail visitation roster** **Request jail phone calls to be recorded and available for detective review on pre-determined schedule** **Other** **<u>Deceased Victim / Suspect Processing :</u>** ***When investigating an <u>Officer Involved Critical Incident</u> and the Officer involved needs processing, reference <u>Addendum "A"</u> at the end of this protocol.***	

☐ Lead Detective(s) shall consult with the Criminalist and Pathologist (or their designees) to discuss the processing of the victim/suspect and the evidence ☐ Consideration shall be made to discuss evidence needed at the time of autopsy ☐ Trace evidence shall be preserved for future examination ☐ Clothing should be collected and viewed ONLY AFTER proper care has been taken to preserve all evidence which can be collected from those items. If the clothing is 'wet' then consideration shall be given to dry the evidence prior to substantial movement of the clothing. Care will be given and proper documentation provided on the methodologies used to keep wet evidence separated to avoid cross contamination with other drying evidence items from the same case ☐ Extreme care must be taken to prevent contamination of evidence and potential loss of trace evidence. Packaging and removal of this evidence should take place ONLY AFTER documentation and photographs are taken. At all times, protective gloves will be worn by those processing unpackaged evidence to avoid DNA cross-contamination ☐ Other **<u>Pathologist and Autopsy Considerations:</u>** ☐ Comply with all existing San Mateo County Protocols governing the attendance of an Autopsy ☐ Utilize and maintain a standardized evidence collection procedure and log ☐ Preferably two (2) Incident Investigators	

should attend the autopsy if possible; one (1) will always attend - Bring photographs of all evidence which will assist the pathologist with their investigation and findings. Coordinate in a pre-autopsy conference call what items physically need to be taken out of evidence and available for the Autopsy Briefing. - Speak with the pathologist about photography during the autopsy and establish a clear understanding on what will be acceptable for evidence documentation - Those attending the autopsy are present to observe the findings and collect evidence if necessary - Items to be collected at the autopsy, by either the pathologist or criminalist, should be, but are not limited to; bullets and bullet fragments, objects impaled into the body, clothing, weapon or objects, hair collection, GSR residue, clippings or scrapings of fingernails, finger prints, DNA or trace evidence, dental impressions (bite pattern analysis), etc. - Investigators shall take care to follow the rules and instructions of the pathologist conducting the autopsy, the coroner's office or his/her designee	

OIC Detective.pdf

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POLICE CHIEFS ASSOCIATION
OF SAN MATEO COUNTY

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POLICE CHIEFS ASSOCIATION
OF SAN MATEO COUNTY

OFFICER INVOLVED CRITICAL INCIDENT SCENE DETECTIVE INVESTIGATION CHECKLIST

ARRIVAL AT SCENE

1. Record your arrival time.

2. Notify Communications to preserve tapes of incident.

3. Record outside weather/temperature conditions.

4. Gather information from patrol unit(s) or other personnel assigned at scene.

5. Obtain and review Uniformed Personnel checklist to determine that all essential preliminary matters have been completed.

6. Consider legality of scene access:

    a. A Search Warrant may be necessary
    b. Consult on-call homicide Deputy D.A.

7. Location and condition of involved officer(s)

8. Ascertain custody status of suspect(s) – in custody or not?

9. If other parties are injured

    a. If ambulance has been summoned & destination.
    b. I.D. of officer(s) who went with ambulance.

10. Number of witnesses present.

    a. Insure that witnesses are separated and identified.

    b. Insure that witnesses remain available for interview.

INCIDENT SCENE CONTROL

1. Identify perimeter of the scene.

    a. Adjust scene perimeter as necessary.

b. Implement procedures to safeguard all evidence found at scene.

c. Implement procedures to protect evidence from inclement weather.

d. Post officer to restrict access to essential persons.

e. Assign an officer to log names/units of personnel involved at scene.

2. Establish a single entry/exit path to the scene.

3. Record names of all parties who altered the scene prior to and during police presence.

4. Implement procedures for continued protection of scene.

5. Insure that all police/medical/coroner generated debris be placed in a plastic bag to be removed by coroner, e.g., bandages, latex gloves, oxygen masks. Syringes must be secured in a hard container.

INVESTIGATIVE NOTIFICATIONS

1. Insure the chain of command is notified and updated.

2. Insure that notification to Crime Lab, District Attorney and Coroner have been made.

SUSPECT INFORMATION

1. Safeguard all evidence found on the suspect
Record where the evidence is found.

2. Remove and bag shoes to preserve trace evidence.

3. Insure that suspect does not wash his hands. **PRESERVE EVIDENCE. (Consider G.S.R. and Trace Evidence)**

4. Do not allow suspect to be taken inside scene, if arrested elsewhere.
Remove suspect from scene.

5. Record demeanor or emotional state of suspect.

6. Assign officer to remain with suspect. Instruct officer to refrain from questioning suspect but to record all statements. Isolate suspect from witnesses or spectators who may be present.

7. Collect and retain all urine voids.

8. Take full-length photo of suspect in clothing worn at time of arrest.

9. Photograph and document all wounds, blood stains, and trace evidence prior to collection from suspect.

10. Collect clothing and bag each item separately.

INVOLVED OFFICER INFORMATION

1. For the purpose of this protocol, the involved officer will be defined as the most significantly involved officer, i.e., the shooter, driver or victim.

2. Establish the location of involved officer(s).

3. Determine actions of involved officer(s) i.e., shooter, driver, witness.

4. If incident is officer involved shooting, secure officer's firearm and duty rig to be turned over to Crime Lab personnel. Re-issue a new gun and other equipment as soon as possible.

5. Remove involved officer(s) from scene and isolate from each other.

6. Consider re-issuance of new weapons to involved officers.

7. Assign non-involved officer or supervisor to remain with most significantly involved officer(s).

8. Obtain blood and urine samples from most significantly involved officer(s).

9. Obtain G.S.R. Sample (if applicable) from witnesses and involved officers.

10. Photograph involved officer, including full-length photo.

11. Where applicable, collect involved officer(s) clothing for necessary evidence preservation.

12. Allow telephone access to involved officer(s) to call for representation, if desired.

13. Prior to being interviewed, allow involved officer(s) to speak with council, if desired.

14. Obtain tape recorded statement from involved officer(s). (**Do not require involved officer to write report.**)

15. Obtain tape recorded statement from witness officer(s).

16. Supervisory officer should be designated to insure that an appointment is made with psychological counselor for involved officer(s).

INCIDENT SCENE INVESTIGATION

1. Implement procedures that ensure no altering of:

    a. Position of dead body;

    b. Clothing worn by deceased;

    c. The overall scene until full documentation is complete.

2. Maintain scene integrity:

    a. Record condition of lights, lamps, T.V., electronic clocks, radio, thermostat setting, etc.

    b. Document the changed status of all light switches doors, windows, gates, etc., necessarily unlocked, opened, etc., to permit entry to police.

    c. Document location and license numbers of <u>all</u> involved vehicles by measurement to fixed objects and photographs (include police vehicles).

RESPONSIBILITIES OF DECTECTIVE IN CHARGE OF INVESTIGATION

1. The detective in charge of the investigation must ensure that the following steps are taken by appropriate personnel, e.g., Criminalist, Evidence Technician, Deputy Coroner.

2. Do not move the body or other evidence **until after full documentation has been completed.** This will include **PHOTOGRAPHS, FINGERPRINTS, MEASUREMENTS and WRITTEN DOCUMENTATION.**

3. Note and record creases, folds on decedent's clothing, bedding, etc., in relation to stab wounds, gunshot holes, etc.

4. Account for all bullet holes and casings.

EVIDENCE COLLECTION/CONTROL

1. Prior to handling any evidence, you shall complete the following processes:

a. Photographs
b. Measurements
c Fingerprints
d. Documentation

2. Ascertain that all evidence is identified.

3. Establish procedures to protect all evidence.

4. Photograph evidence in its original position.

5. Videotape, if available, or request of County Forensic Specialist, if necessary.

6. Develop chalk outlines as necessary.

7. Record position/location of evidence.

8. Measure all evidence to fixed points.
.
9. Record name(s) of person discovering evidence.

10. Initiate proceedings for fingerprinting of evidence.

11. Record name of person recovering evidence.

12. Record name of person assigned to transport evidence to station.

13. Establish procedures for safeguarding evidence pending collecting and marking.

14. If injured was removed to a hospital, take custody of all clothing, property, etc. Other important evidence may also be located at the hospital, and include such items as the decedent's clothing, projectiles removed from the body, evidence falling onto the floor or gurney from the body, personal items in the decedent's possession, and trace evidence.

15. Record Deputy Coroner's arrival time.

16. Direct photography of underside areas as body is turned over: Photograph folds/creases on clothes, bedding, etc.

CONDUCT DETAILED SEARCH OF CRIME SCENE AREA

1. Search for blood smears/other evidence on underside of tables, chairs, etc.

2. Examine trash bins for additional evidence.

3. Search garages, attics, cellars, roofs, yards, alleys for additional evidence.

4. Photograph all additional evidence located. Fingerprint as necessary.

5. Assign officers to canvass immediate area for witnesses as soon as possible.

    a. Consider using prepared questions for canvass activity. (Prepared form available)

    b. Record negative responses also.

6. Record license numbers of all vehicles in the area.

7. Confirm all witness information placing yourself at their vantage points: Determine what the witness could see from location stated.

8. Obtain tape recorded statements from all witnesses as soon as possible, including witnesses who give negative responses.

AUTOPSY

1. The primary investigator shall attend the autopsy.

2. A photographer must be assigned to attend the autopsy.

3. Examine decedent's hands and preserve trace evidence.

4. Obtain GSR samples from decedent's hands.

BRIEFING THE PATHOLOGIST

The pathologist must be informed of all information that <u>may</u> be relevant to the cause of death or to any condition of the body. These factors shall be included:

1. Relevant observations made at the scene.

2. Relevant witness statements.

3. An accounting of items and evidence removed from the body.

4. An accounting of any changes in the position of the body since its discovery.

5. An accounting of any obvious visible changes in the body since first viewed.

6. Reports of the deputy coroner.

7. Photographs and sketches that are available at the time of autopsy.

8. Verbal briefing by Coroner's Deputies.

9. Verbal briefing by Criminalists or Evidence Technicians.

ITEMS FOR PATHOLOGIST'S INSPECTION

1. The detective in charge of the investigation shall consult with the criminalist to determine what items (e.g., knives, guns, weapons, ligatures, etc.) should be brought to the autopsy for examination by the Pathologist.

2. The Criminalist should insure that all trace evidence on the item, (weapons, ligatures, etc.) have been properly preserved to avoid contamination at the autopsy.

3. If an item would normally be shown to the pathologist but is not portable, photographs, sketches, diagrams or a detailed description must be available at the time of autopsy.

CLOTHING

1. All articles of clothing known or suspected to have been worn by the decedent at the time of death and/or injury shall be made available for the pathologist's inspection at the time of autopsy. This includes inner and outer clothing, footwear and jewelry. Police agencies are responsible for bring clothing in their possession to the morgue. In those unusual cases where it is not practical to have clothing present at the time of autopsy, the police agency must make arrangements with the pathologist for timely inspection after autopsy.

2. If decedent was hospitalized when death occurred, care must be taken to obtain all clothing worn at time of hospital admission.

3. Extreme care must be taken to prevent contamination of evidence and to avoid the loss of adherent trace material. Evidence which may be lost, contaminated, rearranged or damaged should be recorded, removed and properly [packaged before the clothing is transported for display to the pathologist.

MEDICATIONS, POISONS AND INTOXICANTS

1. Efforts must be made to locate any medication, poison or intoxicant, which could have been taken internally by decedent at or near the time of the fatal event. Containers and paraphernalia for such substances (i.e., needles, syringes, spoons, glasses, labeled drug containers) must be brought to coroner at time of autopsy.

2. Not included in this section are substances (and their containers), which were directly administered by medical professionals (including emergency life-saving crews) who have documented their use in medical records.

3. Evidence items brought to Coroner's Office for inspection will normally be retained in the custody of the transporting agency.

INTEGRITY OF EVIDENCE

Extreme caution must be utilized in handling any item that is displayed to the pathologist. Keep handling to absolute minimum. Items must be protected from **contamination** at autopsy (e.g., blood from autopsy being transferred to a piece of evidence being displayed). Latent fingerprints must be protected. Trace evidence must be protected from loss and contamination. Maintain the chain of custody of such items. (Clean paper is available at the morgue for display of items.)

INVESTIGATING OFFICER'S REPORT OF AUTOPSY

The investigating officer should report pathologist's preliminary opinion on cause of death.

AUTOPSY RULES

A. All persons attending an autopsy are required to sign the Coroner's Office logbook.

B. No audio or video recording of an autopsy shall be allowed without the express prior permission of coroner and pathologist.

C. Attendance at an autopsy by persons other than/coroner's Office personnel is subject to the approval of the coroner (Government code §27491.4). The number of people attending an autopsy must be kept to a minimum due to space limitation, evidentiary considerations, and the need to eliminate distractions.

D. Persons attending an autopsy are present to observe the findings and to collect and record evidence. The extent of their contact with the body will be governed by the pathologist.

E. Those attending will be asked to adhere to safety guidelines in order to minimize exposure to biohazards. Different standards will apply to those who will be in contact with the body versus those who will only view.

F. Until the pathologist has inspected the body and given approval, the body at the morgue shall not be disturbed nor its condition altered in any of the following illustrative ways"

1. Movement or removal of clothing
2. Movement or removal of any weapon or object
3. Collection of hair standards
4. Collection of gunshot residue that is associated with wound sites
5. Clipping or scraping of fingernails
6. Washing or cleaning
7. Fingerprinting

EXCEPTION

Without the pathologist's approval, fingerprints may be taken from the deceased when **all** the following criteria are met:

A. There is immediate and serious need to identify the decedent which cannot be satisfied by postponing fingerprinting until after autopsy.

B. There is no trauma to the areas of the fingers and hands which will have to be manipulated;

C. The fingers and hands are photographed before being disturbed;

D. Insure that palm prints are collected;

E. The hands and fingers have been examined for trace evidence including gunshot residue, if applicable, and it has been photographed and collected if present.

The collection of trace evidence from areas of the body not directly involved with trauma is permissible without the pathologist's approval.

Photography of the body (without disturbing it) is encouraged. The Crime Lab is available to assist in taking high-quality photographs if the agency is unable to provide a photographer. The agency must make arrangements with the Lab in advance.

NOTE: Civil Code of Procedures §129 prohibits photographing deceased bodies except for law enforcement purposes.

Autopsy attendees who take notes or make diagrams of autopsy results are strongly urged to use great diligence to insure that their notes and diagrams of the pathologist's findings and opinions are accurate by consulting with the pathologist as the notes are prepared.

709 Military Equipment January 2022.pdf

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Type	40MM Less Lethal Launcher
Description	Single shot launcher
Quantity	3
Capabilities	Operational range 10-100 ft.
Expected Lifespan	10-20 yrs.
Manufacturer's Description	40MM tactical single shot launcher.
Purpose and Authorized Uses	To compel an individual to cease his/her actions when such munitions present a reasonable option.
Fiscal Impact	$2,442.00 initial purchase of 3 launchers.
Legal and Procedural Rules	Refer to policies 306, 306.3, 306.4, 306.9, 306.10, 306.11.
Required Training	Initial orientation course including qualification; annual recertification including qualification.
Compliance Mechanisms	Use is subject to the applicable policies (306, 306.3, 306.4, 306.9, 306.10, 306.11).

Type	40MM kinetic energy projectiles
Description	Less lethal 40MM foam-tipped kinetic energy fired from an agency-authorized 40mm launcher.
Quantity	30
Capabilities	Operational range 10-75 ft.
Expected Lifespan	5 yrs.
Manufacturer's Description	40MM sponge baton projectile delivering a blunt trauma effect.
Purpose and Authorized Uses	To compel an individual to cease his/her actions when such munitions present a reasonable option.
Fiscal Impact	$572.00 initial purchase for 30 projectiles.
Legal and Procedural Rules	Refer to policies 306, 306.3, 306.4, 306.9, 306.10, 306.11
Required Training	Initial orientation course including qualification; annual recertification including qualification.
Compliance Mechanisms	Use is subject to the applicable policies (306, 306.3, 306.4, 306.9, 306.10, 306.11).

Type	40MM CS kinetic energy projectile
Description	Less lethal 40MM CS crushable foam kinetic energy round fired from an agency-authorized 40mm launcher.
Quantity	15
Capabilities	Operational range of 10-75 ft.
Expected Lifespan	5 yrs.
Manufacturer's Description	40MM direct impact extended range round.
Purpose and Authorized Uses	Used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances.
Fiscal Impact	$450.00 initial purpose for 15 projectiles.
Legal and Procedural Rules	Refer to policies 306, 306.3, 306.4, 306.6 306.9, 306.10, 306.11
Required Training	Initial orientation course including qualification; annual recertification including qualification.
Compliance Mechanisms	Use is subject to the applicable policies (306, 306.3, 306.4, 306.6, 306.9, 306.10, 306.11).

San Mateo County Child Sexual Abuse Protocol (March 2020).pdf

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San Mateo County
Child and Adolescent Sexual Abuse and Assault Multidisciplinary Team Protocol

2020

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San Mateo County
Child and Adolescent Sexual Abuse and Assault
Multidisciplinary Team Protocol

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San Mateo County
Child and Adolescent Sexual Abuse and Assault
Multidisciplinary Team Protocol

I. Signatories to the Protocol

San Mateo County MDT Steering Committee

Date: 6/2/2020 | 8:38 AM PDT

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Steve Wagstaffe, District Attorney
San Mateo County District Attorney's Office and Victim Services

Date: 5/31/2020 | 3:57 PM PDT

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Al Pardini, President
San Mateo County Police Chiefs and Sheriff's Association

Date: 5/29/2020 | 10:55 AM PDT

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Date: 6/4/2020 | 5:03 PM PDT

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Emily Abrams, Executive Director
Rape Trauma Services

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San Mateo County Law Enforcement Agencies

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San Mateo County Law Enforcement Agencies, continued

Date: 5/29/2020 | 2:39 PM PDT

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San Mateo County Law Enforcement Agencies, continued

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Date: 5/31/2020 | 11:27 AM PDT

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Date: 5/29/2020 | 10:00 AM PDT

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Jeff Azzopardi, Chief
South San Francisco Police Department

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Carlos Bolanos, Sheriff
San Mateo County Sheriff's Office

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II. Introduction

San Mateo County's multidisciplinary response to child and adolescent sexual abuse and assault in San Mateo County has been in existence since 1994. The Keller Center for Family Violence Intervention was dedicated in 2001. Since 2002, San Mateo's best practice approach has been recognized by its continuous accreditation as a full member Children's Advocacy Center (CAC) of National Children's Alliance (NCA). A Child Advocacy Center follows ten national best practice standards in which professionals work together in a child friendly facility to investigate alleged abuse, help children heal from abuse, and hold offenders accountable. The core of a CAC is its multi-disciplinary team—comprised of representatives from law enforcement, child protection, prosecution, mental health, medical, forensic interviewing and victim advocacy—dedicated to ensuring a collaborative approach to all aspects of these unique cases and maintaining a focus on the best interest of alleged child victims and their protective family members.

The CAC facility where the multidisciplinary collaboration takes place is known as the Keller Center for Family Violence Intervention (referred to hereafter as the Keller Center), located at the San Mateo Medical Center (SMMC) hospital. As the lead agency for the CAC, SMMC provides space, equipment and personnel time to the coordination of San Mateo County's CAC. Participating CAC agencies include: SMMC, Rape Trauma Services (RTS), San Mateo County Behavioral Health and Recovery Services (BHRS), Children and Family Services (CFS), the District Attorney's Office (DAO) and its Victim Services Division (VSD), and every law enforcement agency in San Mateo County. Each of these agencies are signatories to this protocol and comprise San Mateo County's Multidisciplinary Team (MDT).

As signatories, the agencies agree to participate in a multidisciplinary team response to child abuse cases in San Mateo County in accordance with the provisions of this protocol. The MDT meets monthly for case review and training. In addition to agreeing to adhere to the coordinated investigative and services approach outlined herein, signatories also affirm that they will place high priority on a representative attending the monthly case review meeting. Representatives from each discipline agree to designate an individual with appropriate decision-making authority to participate on the CAC Steering and Advisory Committees, defined below. All personnel who work on child and adolescent sexual abuse and assault cases are strongly encouraged to attend the county's 2-day training to learn more about how to apply this protocol.

This protocol shall be reviewed and revised every 3 years by the Advisory Committee, or sooner as needed upon a substantive change in practice, policy, or the request of any participating agency.

A. Purpose

The purpose of this protocol is to specify the processes for investigating allegations of child and adolescent sexual abuse and assault within San Mateo County using a multidisciplinary framework. The protocol establishes a cooperative and coordinated effort among San Mateo County law enforcement agencies, Children and Family Services (CFS), District Attorney's

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Office (DAO), San Mateo Medical Center (SMMC), Victim Services Division (VSD), Behavioral Health and Recovery Services (BHRS), and Rape Trauma Services (RTS).

B. Vision, Mission, and Approach

Our Vision: All children who may be victims of maltreatment are cared for in a trauma-informed way that promotes healing, safety, and justice.

Our Mission: To coordinate public, private and community partners in San Mateo County to assure the safety, health and well-being of children who may have been abused.

Our Approach: As an accredited Child Advocacy Center, San Mateo County follows national best-practice guidelines for a multidisciplinary approach to help suspected victims of child sexual abuse and other forms of child maltreatment.

C. Core Values

We believe that:

- The collaborative process—coordinating investigative efforts and sharing case information to reduce duplication—is the best way to respond to child abuse.
- Children and families deserve to receive the highest standards of care in the field of child abuse investigation and intervention, including evidence-based forensic interviewing, expert forensic medical care, trauma-informed investigations, and specialized victim advocacy and mental health services.
- Developmentally, culturally and linguistically-responsive services and trauma-informed care are critical to successful case outcomes and meaningful interventions.
- The professionals who respond to child sexual abuse allegations benefit from mutual support and cross-training from multidisciplinary colleagues to prevent and mitigate vicarious trauma/secondary traumatic stress and build resiliency.

D. Terminology

These terms and acronyms are helpful to understand.

- BHRS/Behavioral Health and Recovery Services: San Mateo County provider of mental health services
- CAC/Children's Advocacy Center: Refers to a multidisciplinary interview center (MDIC) and collaborative process that is accredited by National Children's Alliance (NCA).
- Case Team: The MDT members directly assigned to a specific case/investigation
- CFS/Children and Family Services: San Mateo County's child protection agency. Another term that may be heard is "CPS" (Child Protective Services); CFS is the agency's name and preferred term.
- Child Abuse Images: Refers to images that may depict child sexual abuse or sexual content. The term child pornography is not used.
- Children/adolescents/minors: These are generally used interchangeably

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- CSA/Child Sexual Abuse: Child or adolescent sexual abuse or assault
- CSEC/Commercial Sexual Exploitation of Children: sexual exploitation of children, or a youth who has been exploited in this way. Other terms that may include this term include HT/Human Trafficking, child trafficking, or DMST/Domestic Minor Sex Trafficking. The terms child prostitution or child sex worker are not used.
- DAO/District Attorney's Office: San Mateo County District Attorney's Office
- FIS/Forensic Interviewer/Forensic Interview Specialist: One of the trained forensic interviewers who conducts an MDT Forensic Interview, which generally occurs at the Keller Center.
- Forensic Medical Examination: Also known as a Medical Legal Exam, or MLE
- KC/Keller Center for Family Violence Intervention: Central location for coordination of MDT activities; most MDT Forensic Interviews and Medical Legal Exams occur at the Keller Center
- LE/Law Enforcement: May refer to any law enforcement jurisdiction or team member on the Multidisciplinary Team
- MDT/Multidisciplinary Team: The group of professionals/agencies working together to enact this protocol. Prior terms that may still be heard include: Multidisciplinary Interview Team (MDIT), Multidisciplinary Interview Center (MDIC), or Child Advocacy Center (CAC). The term "CAC" is the word used by our accrediting body, the National Children's Alliance, to describe organizations that accomplish this work.
- MDT Forensic Interview: The process of a Multidisciplinary Interview, which usually occurs at the Keller Center/CAC. Prior terms that may still be heard include Keller Center Interview (KCI), or Forensic Interview (FI), or "a Keller"; MDT Forensic Interview is the preferred term.
- MLE/Medical-Legal Exam: Forensic medical examination
- NCA/National Children's Alliance: accreditation body for our Multidisciplinary Team/Child Advocacy Center
- Perpetrator/assailant/suspect: These are generally used interchangeably
- PSB/Problematic Sexual Behavior: Behavior(s) by minors that may be developmentally inappropriate, illegal, and/or traumatic to other children
- RTS/Rape Trauma Services: A rape crisis center serving San Mateo County that provides advocacy, education, and mental health services
- SAC/Sexual Assault Counselor: A trained individual from RTS who provides advocacy services
- SANE/Sexual Assault Nurse Examiner: A trained medical provider for sexual abuse or assault exams
- SART/Sexual Assault Response Team: San Mateo County's multidisciplinary team for responding to adult sexual assault
- SCAR/Suspected Child Abuse Report: mandated report for suspected child abuse
- SMMC/San Mateo Medical Center: System of health care throughout San Mateo County, including an emergency department and the Keller Center, among other health facilities

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- Victim/suspected victim/survivor/patient/client/minor/youth: Different disciplines in the Multidisciplinary Team may refer to an individual according to the perspective of the team member; these are generally used interchangeably.
- VSD/Victim Services Division: San Mateo County District Attorney's Office Victim Services Division

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III. Cases to which the Protocol Applies

A. Types of Cases

This protocol applies to ALL cases in which a minor (under age 18) is identified as a suspected victim of child or adolescent sexual abuse or sexual assault, even if the suspect/other involved party is a minor. The protocol also applies to youth who are incarcerated. This is a broad definition and includes:

- Felonies;
- Misdemeanors (e.g., sexual battery, annoying and molesting, etc.);
- Contact and non-contact offenses;
- Attempted sex crimes;
- Commercially Sexually Exploited Children (CSEC)/Domestic Minor Sex Trafficking (DMST);
- Student Sexual Abuse (suspected child or adolescent sexual abuse or assault that involves students and/or personnel at a school site, see Appendix 8);
- Children with Problematic Sexual Behaviors (behaviors that may be developmentally inappropriate, potentially harmful to self or others, and/or illegal sexual behaviors between minors);
- Suspicious Circumstances (any allegation or concern from a reporting party that sexual abuse of a minor may have occurred); and
- Child Abuse Images.

B. Jurisdiction

This protocol applies to **all** cases in which:

- The alleged sexual abuse/assault crime or suspicious circumstance occurred in San Mateo County;
- San Mateo County CFS is investigating or serving the family; or
- An allegation is being investigated by a San Mateo County law enforcement agency or San Mateo County CFS as a courtesy for another jurisdiction or agency.

During the initial assessment, an attempt to determine the location of the offense should be made. If it is determined that the offense occurred:

1. Within San Mateo County: The law enforcement agency having jurisdiction over the location of the offense will have the investigative responsibility.
2. Outside San Mateo County: The appropriate law enforcement agency and/or CFS having jurisdiction should be notified prior to any MDT Forensic Interview or medical examination at the Keller Center, unless the potential for loss of evidence is imminent. Whenever possible, victims who come to a law enforcement agency to report should not be turned away; agencies are encouraged to take the initial report as a courtesy for the other jurisdiction.
3. Multiple jurisdictions: In cases where multiple jurisdictions are involved, the law enforcement agency having jurisdiction over the majority of the alleged offenses will

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be responsible for handling the investigation, unless the parties agree otherwise on the primary investigating agency.

4. Unknown jurisdiction: In situations where the initial assessment is unable to establish where the offense(s) occurred, the law enforcement agency having jurisdiction over the child's legal residence will assume initial investigative responsibilities. Whenever possible, victims who come to a law enforcement agency to report should not be turned away; agencies are encouraged to take the initial report pending determination of jurisdiction.

C. Other types of cases that may benefit from the protocol

This protocol mandates a multidisciplinary response to suspected child and adolescent sexual abuse and assault. Other types of cases may benefit from the best practices identified herein. Therefore, members of the MDT may refer other types of cases for potential multidisciplinary investigation, including forensic interviewing and/or forensic medical evaluation, whenever an investigative agency believes that a minor (or adult) would benefit from a coordinated, multidisciplinary approach. These cases may include, but are not limited to:

- Suspected child physical abuse or neglect;
- Child witness (to physical abuse, sexual abuse, homicide, domestic violence or other serious crime);
- Children at risk of sexual or physical abuse, including those who may be at risk due to access by a named perpetrator;
- Vulnerable adult victims of sexual assault (e.g., adults with developmental delays, dependent adults, or other vulnerable adults);
- Adults who report child or adolescent sexual abuse or assault; and
- Any child or adult who is a suspected victim/witness to a crime when an investigator concludes a trauma-informed, specialized forensic interview would be beneficial.

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IV. Multidisciplinary Team (MDT) Membership and Structure

A. Steering Committee**:** The MDT Steering Committee is an entity composed of the directors and chiefs of participating agencies and departments, or their designees. Its essential functions may include oversight, high-level community support, allocation of resources, agency coordination, and periodic approval of the protocol.

B. Advisory Committee: The MDT Advisory Committee (Advisory Committee) is an entity composed of supervisors, managers and agency designees who oversee and establish operational policies and procedures that govern the work of the MDT. The Advisory Committee is responsible for the development and implementation of the protocol training that is recommended to all new members of the MDT; opportunities for feedback among MDT members; development and implementation of a MDT strategic plan; and development and maintenance of the protocol.

C. Multidisciplinary Team (MDT): The MDT is an entity composed of professionals and direct service providers from within San Mateo County including law enforcement agencies, Children and Family Services, the District Attorney's Office, the Keller Center, Victim Services Division, Behavioral Health and Recovery Services, and Rape Trauma Services. The professionals bring a diversity of skills, backgrounds, and training necessary for effective investigative and therapeutic responses to alleged child and adolescent sexual abuse and assault.

D. Case Team: The Case Team is the ad-hoc team, composed of members of participating agencies, which assemble for each individual MDT Forensic Interview or medical-legal exam. The composition of the Case Team will change with each referral. The duties of the Case Team will be:
   1. To share appropriate case information in the pre-interview staffing and during the interview process;
   2. To participate in providing a forensically sound, developmentally appropriate interview with the child(ren) involved;
   3. To coordinate case planning in order to move an investigation forward. This includes discussing next steps and timeframes, and considering joint and follow up interviews including a joint post-interview meeting with non-offending caregiver(s), if indicated;
   4. To consider if a non-acute medical exam is indicated;
   5. To provide the child and/or non-offending caregiver(s) with information regarding the MDT process and crime victim rights;
   6. To answer questions from the child and their family;
   7. To promote and support healing for the child and non-offending caregiver(s) through on-site advocacy, follow-up and referrals; and
   8. To present at monthly Case Review, upon request.

E. Lead Agency: San Mateo Medical Center (SMMC) serves as the lead administrative agency for the county's Child Advocacy Center. As the lead agency, SMMC is the designated legal entity responsible for program and fiscal operations and implementation of administrative policies and procedures, in accordance with NCA Accreditation

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Standards. SMMC provides the space and equipment for the collaborative work of the MDT and allocates Keller Center personnel time to the coordination and collaborative, interagency work of San Mateo County's MDT.

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V. Confidentiality and Information Sharing

To enable a coordinated multi-agency response to cases of alleged child maltreatment, it is critical for MDT members to share information. Welfare and Institutions Code (WIC) Section 10850.1 provides that a multidisciplinary team (MDT) "engaged in the prevention, identification, management or treatment of child abuse may disclose and exchange otherwise confidential information among team members". Per WIC 10850.1, a multidisciplinary team is "any team of three or more persons who are trained in the prevention, identification or treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include but not be limited to: (1) psychiatrists, psychologists or other trained counseling personnel; (2) police officers or other law enforcement agents; (3) medical personnel with sufficient training to provide health services; (4) social workers with experience or training in child abuse prevention; (5) any public or private school teacher, administrative officer, supervisor of child welfare and attendance or certified pupil personnel employee." On a case by case basis, an MDT may designate other individuals, who are not normally members of the team, to participate and exchange information.

A. The San Mateo County MDT agrees to share relevant case information across agencies throughout the investigation, including but not limited to at the time of cross-report, during the pre-interview staffing, during the post interview case planning meeting, and at case review. Each team member agrees to hold any such shared information as confidential.

B. While initial reports may be read, reviewed, or discussed as part of case staffing, the MDT recommends that investigators request copies of reports and records through official channels at each partner agency. This ensures that all reports disseminated are complete and in final form.

C. Mental health clinicians and RTS SACs are bound by psychotherapist and sexual assault privilege, respectively, per Evidence Code Sections 1012 and 1035.2 and will participate in information exchange in accordance with these laws and any exceptions to privilege (such as mandated reporter or Tarasoff exceptions).

D. Per Welfare and Institutions Code (WIC) 827, Children and Family Services will share information about a current investigation and relevant agency case history with a law enforcement agency investigating the same allegation. Law enforcement can request a copy of the Investigative Narrative (closing summary) from the CFS social worker or CFS hotline.

E. Forensic medical reports, including non-genital photos, follow-up forensic exam reports, photo reviews, or forensic opinions, may be distributed by SMMC staff only to investigating MDT members from law enforcement, Children and Family Services, and the District Attorney's Office. Genital photos, and all other requests for forensic medical reports, shall be through a subpoena and subject to review by counsel as appropriate. Other medical documentation (e.g., general medical care rendered at the time of a

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forensic medical exam), may be obtained through SMMC Medical Records, subject to applicable legal restrictions.

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VI. Law Enforcement Responsibilities

A. Rationale for a Different Approach

Law enforcement is responsible for protecting victims and linking them to appropriate community resources, investigating allegations, attempting to apprehend suspected assailants, protecting crime scenes, and gathering evidence needed to ensure successful prosecution, should the evidence support the filing of criminal charges. While each law enforcement agency has its own internal policies and procedures, all agencies and jurisdictions in San Mateo County are signatories to this protocol, which uses a multidisciplinary model for sexual abuse and assault investigations.

The role of the First Responder is different in child sexual abuse cases when compared to other types of criminal investigations. When a case involves allegations of child sexual abuse, in which concurrent child protection and criminal investigations are likely, an ideal investigation includes immediate coordination between law enforcement and CFS to plan out how initial contacts with a child, family or reporting party will be handled. CFS has a legal mandate to assess the safety of all children in the family and to respond to emergency needs within legally specified timeframes. These initial contacts are critically important to the outcome of the investigation. A coordinated joint response—particularly regarding how and whether initial statements are taken by minors—minimizes trauma, contributes to child safety and safeguards the criminal and dependency investigations.

In accordance with this protocol and California's mandated cross-reporting laws, law enforcement First Responders will take every appropriate opportunity for cooperation and collaboration with Children and Family Services (CFS) and make every effort to respond to cases involving joint investigations within CFS's legally mandated time frames.

B. Cross Reporting and Initial Information Gathering with CFS

If no exigency exists, cross-reporting to CFS should occur before information gathering begins. It is recognized that a joint response is not always possible. In those instances, the responding agencies, in accordance with California's mandated child abuse reporting laws, will cross-report all referrals of suspected sexual abuse to CFS immediately or as soon as practically possible, by telephone and within 36 hours in writing, in accordance with the State of California's mandated cross-reporting requirements for child abuse cases as delineated in Sections 11165 through 11174.5 of the California Penal Code. Cross-reporting to CFS is mandated by law even in non-familial cases. CFS will determine the nature of their response. CFS hotline reports are classified as one of the following:

- Immediate Response: Response within two hours and no later than 24 hours
- 10-day Response: Response within 10 calendar days
- Evaluate out: No response; does not meet CFS criteria. An Evaluate Out report may be referred to Differential Response (DR) by CFS. Differential Response is a community-based partner program of CFS which offers a

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family voluntary case management services to assist in connecting them to resources in the community to address their needs.

Regardless of response classification, the assigned CFS worker will notify law enforcement to make a joint response prior to making contact with a child who is the subject of a sexual abuse investigation and prior to making contact with the child's parent/guardian. If law enforcement declines involvement initially, the CFS worker will advise law enforcement of the outcome.

Frequently, law enforcement aims to avoid alerting a suspect of a pending investigation. **When CFS is required by law to notify a custodial parent or guardian regarding a child sexual abuse allegation, the CFS worker will first notify the law enforcement officer of the intent to notify the custodial parent or guardian, giving law enforcement sufficient advance notice and the opportunity to engage in a multidisciplinary approach.**

C. Interview Reporting Adult(s)

Law enforcement, together with CFS whenever practically possible, should begin an investigation by speaking with the reporting party and other adult sources to determine **if child sexual abuse *may* have occurred**, including the following information:

1. Nature of the disclosure or discovery of possible abuse;
2. Jurisdiction;
3. Time frame of last contact (to determine if an acute medical exam is needed);
4. Identity or description of alleged offender; and
5. Assessment of immediate safety needs and parental protective capacity.

Interviews with witnesses and/or guardians should be conducted outside the presence of the suspected child victim. Victims and other minors (including adolescents) should NEVER be used as interpreters for the adult interview or to interpret when informing guardians about allegations.

D. Determine whether a Minimal Facts Field Interview of a Child/Adolescent is Needed

If the First Responder can determine the above information (Section VI.C.) from an adult source(s), First Responders **should not interview or attempt to verify the allegation** with the child/adolescent. Instead, inform the minor and legal guardian (unless there is a case-specific concern) about the need for a forensic interview and defer all interviewing of the victim to the MDT Forensic Interview that will take place at the Keller Center.

Well-established best practice in the investigation of child sexual abuse is to reduce duplicative interviews of the child by non-expert interviewers. Duplicative interviews are not trauma-informed, can be distressing to victims, and are not in line with current best practices for forensic information gathering. Many investigations can be referred directly to the Keller Center for a MDT Forensic Interview because in many cases of child or

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adolescent sexual abuse or assault, the required basic information to begin an investigation is often initially made available through an adult source, as described above.

A brief, minimal facts field interview of the child/adolescent is needed **only** if:

- the information listed in Section VI.C. above cannot be determined from adult sources; and/or
- CFS or law enforcement has immediate safety or protection concerns or other exigencies exist.

If possible, the decision regarding the need for a minimal facts interview should be made in consultation with CFS, DAO, and/or a Forensic Interview Specialist. In many circumstances, collaborative solutions to the exigent circumstance can be generated to allow for a full MDT Forensic Interview process rather than an exigent field interview by someone who is not a child interview specialist. If it is determined that a brief, minimal facts field interview is needed, the field interview should be conducted jointly with CFS whenever possible, utilizing San Mateo County's "First Responder Minimal Facts Investigation and Interviewing" as the template for conducting a brief field interview. (See Appendix 1 for this outline. It is also available on LawNet.) **The minimal facts field interview should be audio and/or video recorded by law enforcement.**

Even when a minimal facts field interview about possible sexual abuse is not needed, CFS workers may still be required by law to conduct a Global Assessment about child welfare needs and determine if there are any other factors impacting the immediate safety of the child. The Global Assessment must be an in-person contact with the child. The CFS social worker should contact the investigating law enforcement jurisdiction prior to making contact with the youth for this assessment and explore the best way to coordinate and determine if a joint response for this assessment is appropriate. CFS workers will consult with their supervisors to determine if the Global Assessment should be conducted prior to or after the MDT Forensic Interview. If it is determined that the Global Assessment should be conducted prior, CFS workers should not ask minors questions about possible sexual abuse and should defer those questions to the MDT Forensic Interview. If, during a Global Assessment, a child makes a spontaneous disclosure of suspected sexual abuse, the CFS worker should document the question that elicited the disclosure and the child's verbatim response and will advise law enforcement and the Forensic Interviewer about the disclosure.

E. Determine if there are Interview Exigencies

For the majority of cases, sufficient initial information can be gathered from adults; some cases will still need a minimal facts field interview of a minor, while awaiting a MDT forensic interview at the Keller Center. On very rare occasions, law enforcement may need to obtain other information from the minor prior to a scheduled MDT forensic interview. Every effort should be made to consult with MDT partners (such as CFS, DAO, or Keller Center Medical Provider or Forensic Interview Specialist) to resolve the informational need without a longer field interview of the minor. **If the exigency cannot be addressed without a longer conversation with the minor, the law enforcement**

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interview should be recorded and RTS should be called for accompaniment. In this rare circumstance, law enforcement and CFS can access the Keller Center facilities to utilize the interview rooms and recording equipment 24/7. At the earliest opportunity, law enforcement and CFS should consult with other MDT partners to assure that the victim and family needs have been met and considerations for a MDT forensic interview process.

F. Address Protection of the Child(ren)

Often, a safety plan can be devised that protects the safety needs of all involved and does not compromise an investigation. By working together with the caregiver, CFS and law enforcement can generate such a safety plan. Many cases are best served by making a short-term plan that allows for information gathering, scheduling of a MDT Forensic Interview, and protection of the child(ren) from further abuse until the MDT Forensic Interview. Collaboration is essential to ensure that both agencies' investigative needs are met, while recognizing that both agencies have different policies and practices.

Law enforcement aims to avoid alerting a suspect of a pending investigation. However, there are occasions when, by law, CFS needs to notify the custodial parent or guardian regarding a child sexual abuse allegation and doing so may result in alerting a suspect. In those situations, the CFS worker will first notify the law enforcement officer of the intent to notify the custodial parent or guardian, giving law enforcement sufficient advance notice and the opportunity to engage in a multidisciplinary approach.

Some cases with immediate safety risk will require law enforcement or CFS to place the child(ren) in protective custody, pursuant to Section 300 of the California Welfare & Institutions Code. If it is unclear whether the child is at immediate risk but there is concern regarding the child's safety, the CFS worker may seek a protective custody warrant from the Juvenile Court judge or other on-call judge.

The following criteria should be used in assessing the need for protective custody:

- Whether the child(ren) is/are at risk for further abuse or harm;
- Ability of a non-offending parent or guardian to protect the child; and/or
- Need for immediate medical attention or forensic medical examination.

Once a judge orders a removal by signing a warrant, CFS will need to execute the warrant as soon as practically possible and a detention hearing will be scheduled within 72 hours. At the detention hearing, parents/guardians will be given information about the full nature of the investigation, even if the parent is a suspect. Timely collaboration between law enforcement and CFS is essential to plan accordingly.

G. Plan MDT Forensic Interview

See Section K for details regarding scheduling and attending the MDT Forensic Interview.

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H. Authorize Forensic Medical Examination (Medical Legal Exams, MLEs)

1. Victim Forensic MLEs and Post-Assault Related Medical Care

Upon receiving an initial report of a suspected sexual assault, law enforcement will ascertain whether an acute forensic medical exam is indicated according to the criteria described below. If the alleged crime meets these criteria for referral for an acute exam, law enforcement should immediately transport the suspected victim to the Keller Center at SMMC for an acute MLE. Medical-Legal Exams are provided at the Keller Center 24 hours a day, 365 days/year. Law enforcement will provide the relevant Penal Code section for any acute Medical Legal Exams to the medical examiner.

a. Acute MLE Criteria

Acute forensic medical examinations for suspected child and adolescent sexual abuse and assault should be offered in the following circumstances:

i. A medical intervention is needed to assure the immediate health and safety of the child, including the need for emergency contraception (to prevent pregnancy) or medications to prevent sexually transmitted infections, including HIV.
ii. There is evidence or complaint of pain, injury, or bleeding in the genital or anal area.
iii. Minors age 12 and under: whenever sexual contact may have occurred within the previous 72 hours. Exams are also indicated for allegations involving vaginal penetration within the previous 10 days or for other acute medical needs.
iv. Minors between the ages of 13-17: whenever sexual contact may have occurred within the previous 10 days or for other acute medical needs.
v. If the first responder is unsure whether an acute medical exam is indicated, they should consult the Keller Center or the on-call pediatrician/SANE (Sexual Assault Nurse Examiner) at SMMC.
vi. Other circumstances, as determined by the MDT.

Note: Acute psychiatric emergencies, including suicidal ideation, and acute medical needs can be addressed at SMMC and will take priority over forensic medical exams.

b. MLE process may include:

i. Review of patient options for evidence collection;
ii. Review of patient consent;
iii. Focused medical history, including regarding allegations of abuse or assault;
iv. Collection of clothing if indicated;
v. Physical exam, including anal-genital region;
vi. Evaluation of injuries, normal variants, or other physical findings;

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vii. Photo-documentation;
viii. DNA and other forensic evidence collection;
ix. Evaluation of emergency contraception needs;
x. Prevention, treatment, and/or testing for sexually transmitted infections, including HIV;
xi. Brief evaluation of acute psychiatric emergencies, including suicidal thoughts, with connection to Psychiatric Emergency Services, as needed; and
xii. Provision of Sexual Assault Survivor Rights Card.

c. Distribution of Evidence from MLEs

i. Law enforcement is responsible for taking completed forensic medical kits to the San Mateo County Sheriff's Office Forensic Laboratory in accordance with applicable laws.
ii. Clothing collected during the exam will be packaged by the medical examiner and handed to the officer at the time of the exam, unless other arrangements are made.
iii. Completed Forensic Medical Reports will be sent to law enforcement and CFS, if applicable, following completion of the exam.
iv. Exam photos are reviewed twice monthly by Keller Center medical staff. Following the routine review meeting, a "Review of Photographs" document will be completed and sent to the investigating officer, detective, and/or social worker(s). If sooner review is needed, this can be requested by contacting the Keller Center medical staff.
v. Photos of any physical findings (non-anal/non-genital) are stored securely by the Keller Center and maintained in perpetuity. Copies may be requested by investigating MDT members (law enforcement, Children and Family Services, or the District Attorney's Office).
vi. Photos of anal/genital areas are stored securely by the Keller Center. Copies will only be released with a valid subpoena, pursuant to applicable law.
vii. Other patient medical records, including medical care obtained in the San Mateo Medical Center Emergency Department as part of the Medical Legal Exam, are stored by San Mateo Medical Center and can be obtained through the SMMC Medical Records Department, subject to applicable legal restrictions.

d. Acute MLEs for Non-Reporting Victims

The 2013 Violence Against Women Reauthorization Act (VAWA) created two federal rights for individuals 12 years of age and older who self-identify as a victim of sexual assault:

- The right to a Sexual Assault Forensic Medical Examination at no cost to the victim.

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- Provision of a Sexual Assault Forensic Medical Examination without any requirement or obligation to engage with law enforcement or to participate in criminal justice proceedings.

From a healthcare standpoint, it is believed that more victims will seek medical care after a sexual assault if they are not required to immediately engage with law enforcement in order to obtain needed care. From a criminal justice standpoint, it is believed that more victims will ultimately choose to report to law enforcement after they have time to explore options, work with a victim advocate, and develop the ability to overcome barriers to reporting. VAWA gives sexual assault victims time to think about how they want to proceed, without loss of perishable evidence.

If a sexual assault victim ages 12+ chooses not to engage with law enforcement but wishes to receive acute medical care and/or forensic evidence collection:

1. Law enforcement for the jurisdiction of the assault is notified.
2. If the victim does not provide or does not know the location of the assault, law enforcement for the jurisdiction where the minor victim resides is notified.
3. Law enforcement should refer the victim to Rape Trauma Services (650-692-7273) to discuss his/her options and allow time for the victim to immediately consult with a sexual assault counselor.
4. The victim will be informed that they have a right to a forensic exam, at public expense, regardless of their choice to engage with law enforcement.
5. If the victim wants evidence collection without law enforcement involvement, the victim will be transported to the Keller Center, where the appropriate Forensic Medical Report will be completed.
6. If a forensic exam is declined, medical care is still available at the Keller Center, and the victim should be transported to the Keller Center. If care at the Keller Center is declined, the victim should be advised to seek medical attention elsewhere.
7. The distribution of evidence for non-reporting victims is the same as for reporting victims.
8. The Keller Center will charge the law enforcement agency for forensic exams of non-reporting victims. Law enforcement may request reimbursement from Cal OES by submitting a claim to the California Office of Emergency Services.
9. The victim has the option to convert the case to active status by reporting within the relevant statute of limitations.
10. For cases involving violations of Penal Code sections 261, 261.5, 262, 286, 287 (or former 288a) and 289, law enforcement shall submit sexual assault forensic evidence to the Crime Lab within 20 days of booking into evidence. The Crime Lab shall process the evidence within 120 days of receipt or transmit to another Lab for testing within 30 days. If the law enforcement agency does not analyze the evidence within 6 months prior

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to the time limits in PC 803(g)(1)(A)(B), the law enforcement agency shall inform the victim orally or in writing, at least 60 days before destruction of the evidence. Law enforcement shall not destroy rape kit and crime scene evidence from an unsolved sexual assault case for 20 years, or if the victim was under 18 until the victim's 40th birthday. If the law enforcement agency intends to destroy evidence of an unsolved 261, 261.5, 262, 286, 287 (or former 288a), 289 case the agency shall notify the victim in writing at least 60 days before the destruction.

11. If a minor elects to not have evidence collected, assault-related medical care will still be offered, and law enforcement will be charged for these services.

e. Non-Acute MLE Criteria

Many reports of child/adolescent sexual abuse and assault fall outside the timeframe guidelines for an acute exam. In these cases, it is ideal to offer all minor victims a non-acute forensic medical exam following an MDT forensic interview when more complete information about the allegation is known. Non-acute forensic medical legal exams are also considered for children who are too young or unable developmentally to participate in a forensic interview. Considerations for a non-acute MLE include:

1. History of pain or bleeding with reported contact;
2. Anal/genital contact;
3. Persistent symptoms, such as discharge or pain with urination;
4. Potential for sexually transmitted infections;
5. Follow-up examination after an abnormal acute exam;
6. Child or guardian concern; and
7. Other circumstances as determined by the MDT.

Non-acute exams will be documented on an appropriate Forensic Medical Report or follow-up exam note and distributed to the investigating agencies. The distribution of other evidence is the same as for Acute Medical Legal Exams.

2. Suspect Forensic Medical Legal Exam

Suspected perpetrators of sexual assault may be examined in the Keller Center, and a Forensic Medical Report will be completed. A police officer will remain in the room at all times during the exam and evidence collection. There shall be no contact, visual or otherwise, between any victim or victim's family members and any suspect (even if from different investigations/cases).

San Mateo Medical Center requires patient consent for any medical exam or procedure. If a suspect refuses an exam, the SANE will not perform a forensic medical exam against the suspects' wishes. In this instance, evidence collection may

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be done by a police officer. Photographs and evidence preservation can be facilitated by the SANE.

In order to collect biological samples from minors who are suspects in a sexual assault crime, law enforcement must get both consent and parental approval. Exceptions exist for victims of sexual assault; court orders; abandoned samples; or to comply with PC 296.

The same processes are followed for distribution of evidence. Law enforcement will be charged for this exam.

3. Accessing the Keller Center for an Acute MLE

For acute medical exams of victims or suspects, the Keller Center is available at any time. During business hours, a medical exam may be requested by calling the Keller Center (650-573-2623). After business hours and on holidays and weekends, the San Mateo Medical Center Emergency Department (650-573-2671) should be notified. The emergency department will notify the appropriate medical team.

If disclosure of the abuse is delayed, and/or the disclosure does not meet acute timeframe guidelines, a non-acute exam can be scheduled during regular business hours by calling the Keller Center.

4. Authorizing Payment for Medical Legal Exams and Assault-Related Medical Care

Per Penal Code 13823.95(c), "the cost of a medical evidentiary examination…for a victim of a sexual assault shall be…charged to the local law enforcement agency in whose jurisdiction the alleged offense was committed." In San Mateo County, law enforcement agencies authorize and pay for exams that include forensic care and/or limited assault-related medical care. Authorization can be given in person or by phone.

There may be rare circumstances when law enforcement does not or cannot authorize a forensic exam but CFS needs to authorize one for dependency purposes.

I. Preserve other Evidence

Law enforcement shall collect, document and preserve all available evidence. It is strongly recommended that first responders consult with experienced investigators or detectives in their departments as well as with deputy district attorneys, medical providers, CFS, or other MDT members as needed. Consider whether search warrants are needed. Available field evidence, some of which is time sensitive, may include:

1. Possible crime scene or physical surroundings;
2. Visible injuries;
3. Excited utterances;

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4. Instrumentalities of the crime (objects used to commit the abuse, lubricating jelly, controlled substances, pornographic movies, photographs or magazines, etc.);

5. Papers, documents, photographs, electronic devices, computers and related objects, or cell phones;

6. Physical evidence (such as fingerprints; materials that may contain body fluids or material which could be used in DNA analysis, such as used condoms, bedding, and towels; victim/suspect clothing and belongings; hairs; etc.);

7. Evidence of alcohol and/or drug consumption by the suspect or victim;

8. Vomit and the victim's first urine sample may be helpful if there is a concern for drug- or alcohol-facilitated sexual assault. Urine toxicology kits are obtained from the San Mateo County Forensic Laboratory; and

9. Suspect statements.

J: Assure Victims' Rights

Sexual assault victims have multiple rights in accordance with state and federal laws. This protocol does not contain an exhaustive list of victim's rights. However, upon commencing a child or adolescent sexual abuse or assault investigation, law enforcement should take special note of Appendix 5 and the following:

1. Per PC 679.04, the law enforcement officer shall inform the victim of sexual assault (as defined by Penal Code Section 264.2(1)(b)) of the right to have a Sexual Assault Counselor and a support person of the victim's choosing present at any interview. The support person (as distinct from the Sexual Assault Counselor) may be excluded from the interview if law enforcement deems the presence of that person is detrimental to the purpose of the interview. An initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspect(s) shall not constitute a law enforcement interview for purposes of this code section. Our best practice in San Mateo County is to request a Sexual Assault Counselor at all longer interviews with minors.

2. Per PC 680.2, at the time of an initial contact with law enforcement, law enforcement shall provide a Sexual Assault Survivor Rights Card. English and Spanish card templates specific to San Mateo County and that meet the legal requirements of PC 680.2 are available (see Appendix 5 and LawNet). Each law enforcement agency should add its own contact information. For card templates in other languages, law enforcement is directed to: https://oag.ca.gov/victimservices/ab1312.

3. As described above, California law and the 2013 Violence Against Women (VAWA) Reauthorization Act affords individuals 12 years of age and older who self-identify as victims of sexual assault the right to a Sexual Assault Forensic Medical Examination

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at no cost to the victim without any requirement or obligation to engage with law enforcement or to participate in criminal justice proceedings.

K: Schedule and Attend the MDT Forensic Interview at the Keller Center

The Keller Center is the designated facility for conducting a Multidisciplinary (MDT) Forensic Interview of a minor victim of any sex crime. A neutral, victim-centered setting and multidisciplinary response is associated with reduced trauma and enhanced service delivery. The multidisciplinary process that takes place when the MDT gathers at the Keller Center enables access to case consultation and effective service referrals based on collaboration and information sharing among law enforcement, child and family services, deputy district attorney, medical providers, advocates, and forensic interview specialists.

1. Scheduling

a. MDT Forensic Interviews are available at the Keller Center during regular business hours.

b. A MDT Forensic Interview should ideally be conducted at the Keller Center **within one week** of the initial report to law enforcement or CFS. In cases in which a child has been taken into protective custody or there is a case-related exigency, every effort will be made to conduct a Keller Center forensic interview sooner than one week.

c. MDT Forensic Interviews of suspected child/adolescent sexual abuse/assault conducted at the Keller Center may only be conducted by Forensic Interview Specialists and MDT members who have had 32+ hours of specialized training in conducting forensic interviews and participate in continuing education and peer review activities as defined and approved by National Children's Alliance's (NCA's) Standards for Accredited Members. The Forensic Interviewer will be responsible for conducting a forensically sound, developmentally appropriate forensic interview in accordance with the methodologies and procedures outlined in this protocol and appendices.

d. The law enforcement officer (unless otherwise agreed with the CFS social worker) will take primary responsibility for scheduling a Keller Center forensic interview at a mutually agreeable time. If a CFS social worker has not yet been assigned to the case, the law enforcement officer shall call the CFS hotline (650-802-7922) to inform CFS of the scheduled interview, even if the case had previously been cross-reported to the child abuse hotline. Attendance at the MDT Forensic Interview is expected from both CFS and law enforcement, unless one agency has specifically declined to investigate the current allegations.

e. MDT Forensic Interviews should ideally be conducted in the child's primary language. For children of any age who have a monolingual Spanish-speaking

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guardian, the Spanish-English bilingual forensic interviewer should be utilized whenever feasible, even if the minor appears to speak conversational English. In this instance, law enforcement is responsible for securing an interpreter for the MDT in the observation room. If the Spanish-English bilingual interview specialist is unavailable, and for languages other than Spanish, law enforcement is responsible for securing an interpreter(s). It is acceptable for law enforcement to arrange for an interpreter from CFS. Best practice for ASL (American Sign Language) interpretation for deaf and hard-of-hearing individuals is to have two interpreters, one hearing and one from the deaf community.

f. To schedule a MDT Forensic Interview, call the Keller Center during business hours at 650-573-2623. At the time of scheduling, investigators will be asked to provide:
   - Basic identifying and demographic information about victim, guardian and suspect;
   - A brief summary of the allegation;
   - Information about developmental, language, cultural, or other considerations for the child or family;
   - Whether there are prior recorded statements by the victim (for example, if a minimal facts field interview was conducted due to exigent circumstances and/or child protection concerns). If there are recordings, these should be made available to the Keller Center forensic interview specialist who will be conducting the forensic interview with enough time to review the recordings prior to the date of the scheduled interview;
   - Whether there are pieces of evidence that might be introduced in the forensic interview. If there is such evidence, it should be brought to the Keller Center, if possible. Examples include, but are not limited to: text messages, written statements, photographs, child abuse images, etc.;
   - Whether a minor reporting sexual abuse/assault is in custody or on probation. If so, law enforcement, in coordination with the District Attorney's Office, should make every effort to notify the minor's counsel to inform them of the planned interview. Minors who are in custody should be transported to the Keller Center for their forensic interview. It is law enforcement's responsibility to coordinate these arrangements with the juvenile detention facility;
   - Whether the District Attorney's Office facility dog would be beneficial, if available;
   - How the family will be transported to the Keller Center. If transportation to the Keller Center is a barrier for the family, law enforcement and/or CFS will provide transportation; and
   - Other relevant considerations.

g. The Keller Center will notify the investigators, District Attorney's Office, CFS Supervisors, Victim Services Division, and Rape Trauma Services of the appointment.

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h. Presence in the interview room is usually limited to the minor, the interviewer, an interpreter if necessary, and a RTS Sexual Assault Counselor (SAC) when requested by the victim. The RTS SAC will provide accompaniment, support, and psychoeducation to family members in the Keller Center waiting room, as needed. Other Case Team members (such as law enforcement, CFS, DA, medical provider, VSD Victim Advocate, and interpreter, if needed for the team) routinely observe the interview live from the adjacent observation room. Other persons such as, but not limited to, trainees and the DAO facility dog handler, will be admitted to the observation room at the discretion and approval of the Case Team. Parents/guardians are discouraged from being in the interview room and/or observing from the observation room. Exceptions can be made on a case-by-case basis by Case Team consensus.

2. Other MDT Forensic Interview Considerations

a. In cases involving suspected sibling sexual abuse, CFS and law enforcement should work together to determine the best investigative plan, taking into account child ages, safety considerations, parental protective capacity, and both agencies' mandates.

b. Cases involving problematic sexual behaviors may be served well by the MDT process. CFS often needs to formally evaluate these concerns; a MDT Forensic Interview is an important tool, with law enforcement present to evaluate possible evidence of a related crime and to take custody of the recording. A MDT Forensic Interview process also includes advocacy and mental health follow-up supports for families and children who may have experienced trauma and abuse.

   Typically, these investigations should begin with an interview of the younger minor or complaining victim. Following that interview, the Case Team may consider a MDT Forensic Interview for the older or initiating minor on a case-by-case basis. In cases where charges may be considered, consultation with the Juvenile District Attorney is recommended. A MDT Forensic Interview is usually appropriate for initiating minors under age 12 who have engaged in problematic or developmentally atypical sexual behavior with a younger minor or same-age peer. MDT Forensic Interviews may also be appropriate for older minors, on a case-by-case basis. In circumstances in which charges might be filed, it is preferable for law enforcement and/or CFS to conduct those interviews. If, during any law enforcement or CFS interview, a minor discloses a history of sexual victimization, a MDT Forensic Interview should be scheduled at the Keller Center regarding the concern for sexual victimization.

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c. If a minor recants a prior disclosure of sexual abuse or assault, consultation with the MDT is recommended. In many instances, a MDT Forensic Interview with a Forensic Interview Specialist will be appropriate.

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d. Suspects/alleged sexual assault offenders may not be present in the Keller Center at the same time as any child. Suspect interviews are not conducted at the Keller Center. See (b) above for considerations for minors with problematic sexual behaviors.

3. Preparing the Child and Family for the MDT Interview at the Keller Center

A key step in the success of the MDT investigation is adequate preparation for the MDT forensic interview at the Keller Center. The individual scheduling the interview, whether law enforcement or CFS, will instruct caregivers to:

a. Let the child know why they're going to the Keller Center (for example, to talk about what happened or to have their body checked).

b. Not question the child further about the allegations. However, if the child spontaneously makes statements, caregivers should listen, make note of the statements to inform the investigators, and reassure the child they will be able to talk about this more at the Keller Center.

c. Consider logistics for the family, such as snacks, anticipated length of interview appointment (2-3 hours), and the need to arrange childcare for siblings.

d. For adolescent victims, first responders are encouraged to share with families/guardians the minimal amount of information as practically possible about the allegations prior to the MDT interview, until the full team can assemble at the Keller Center to meet with adolescents and their guardians. If an adolescent requests to attend the MDT interview at the Keller Center without a guardian present, law enforcement and/or CFS will follow their own agency guidelines about how/whether to inform guardians and making transportation arrangements.

4. Law Enforcement (LE) Role During MDT Forensic Interviews at the Keller Center

a. A law enforcement officer will be responsible for observing forensic interviews live in order to later testify, if necessary, about the child's statement (per Proposition 115) and to take custody and control of the forensic interview recording.

b. The law enforcement officer will come prepared with case-related documents and reports in order to participate in a pre-interview discussion and

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information exchange with other MDT members. The Case Team will use this information to plan the forensic interview.

c. The law enforcement agency will take custody and control of the recorded interview. The Keller Center is not the custodian of record and recordings are regularly expunged. The law enforcement DVD or flash drive with the recording is the official record of the interview. Therefore, law enforcement should confirm upon return to their agency setting that the audio-visual recording is functional. Additional information regarding recording procedures is located in Appendix 4.

d. If a child's statement during an interview includes disclosure of acts which warrant a non-acute medical exam or the child or family has medical questions related to the reported abuse, it is the responsibility of law enforcement to consult with a member of the Keller Center medical team and to authorize an exam, when indicated.

e. Following the MDT Forensic Interview, the Case Team members will discuss next steps in the investigation. The Case Team will lead a post-interview discussion with minors and/or guardians to discuss next steps and to answer questions relevant to the investigation.

L. Law Enforcement Ongoing Investigation

Following a MDT Forensic Interview, law enforcement will follow their agency's guidelines regarding next steps in the investigative process. If further investigative processes include the victim's participation, RTS should be called to provide advocacy and support.

M. On-Going MDT Responsibilities for Law Enforcement

1. Attendance at monthly MDT Case Review

One representative per law enforcement agency should routinely attend the Child Sexual Abuse MDT monthly meetings and case review. It is during this monthly meeting that best practice ideas about multidisciplinary investigation of child sexual abuse and trauma-informed practices are discussed and announcements about county-wide practice updates are provided. Generally, this individual should be a detective or other officer who regularly investigates child sexual abuse and related cases. Law enforcement agencies will be asked to present cases for Case Review. In this instance, the investigating officer or detective should attend Case Review to present the case and make note of recommendations for follow-up from the Case Review.

2. Annual Collection of Statistics and Survey Data

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Every law enforcement records department shall provide annual statistics about the number of child sexual abuse/assault cases (including suspicious circumstances) reported to their agency, in accordance with data collection requirements for National Children's Alliance Accreditation.

All MDT members will be requested to complete an anonymous Outcome Measurement System (OMS) survey twice annually to identify suggestions for MDT process improvements. Issues identified through the surveys will be discussed and considered by the Advisory Committee, who will report back to the MDT.

3. Protocol Training

Law enforcement agencies will utilize training opportunities to teach the protocol to staff as appropriate. This includes regularly sending personnel to attend the county's 2-day training, especially those who might participate or supervise someone on a MDT Case Team. Agencies who agree to have personnel serve on the Advisory Committee will also support the teaching and facilitation of the 2-day training and other Advisory projects, as needed.

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VII. Children and Family Services Responsibilities

A. Rationale for a Different Approach

Children and Family Services (CFS) are responsible for evaluating safety and risk to children and ensuring appropriate services to families. While CFS has its own internal policies and procedures, CFS is a signatory to this protocol which uses a multidisciplinary model of investigations for sexual abuse and assault.

The role of the First Responder is different in child sexual abuse cases when compared to other types of dependency investigations. When a case involves allegations of child sexual abuse, in which concurrent child protection and criminal investigations are likely, an ideal investigation includes immediate coordination between law enforcement and CFS to plan out how initial contacts with a child, family or reporting party will be handled. CFS has a legal mandate to assess the safety of all children in the family and to respond to emergency needs within legally specified timeframes. These initial contacts are critically important to the outcome of the investigation. A coordinated joint response—particularly regarding how and whether initial statements are taken by minors—minimizes trauma, contributes to child safety and safeguards the criminal and dependency investigations.

In accordance with this protocol and with California's mandated cross-reporting laws, CFS will take every appropriate opportunity for cooperation and collaboration with law enforcement and make every effort to respond to cases involving joint investigations in a manner that takes into account both CFS legally mandated time frames and law enforcement's investigative needs.

B. Cross Reporting and Initial Information Gathering with Law Enforcement

If no exigency exists, cross-reporting to law enforcement should occur before information gathering begins. It is recognized that a joint response is not always possible. In those instances, the responding agencies, in accordance with California's mandated child abuse reporting laws, will cross-report all referrals of suspected sexual abuse to law enforcement immediately or as soon as practically possible in accordance with the State of California's mandated cross-reporting requirements for child abuse cases as delineated in Sections 11165 through 11174.5 of the California Penal Code. Cross-reporting to CFS is mandated by law even in non-familial cases. CFS will determine the nature of their response. CFS hotline reports are classified as:

- Immediate Response: Response within two hours and no later than 24 hours
- 10-day Response: Response within 10 calendar days
- Evaluate out (does not meet CFS criteria). An Evaluate Out report may be referred to Differential Response (DR) by CFS. Differential Response is a community-based partner program of CFS which offers a family voluntary case management services to assist in connecting them to resources in the community to address their needs.

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Regardless of response classification, the CFS worker will notify law enforcement to make a joint response prior to making contact with a child who is the subject of a sexual abuse investigation and prior to making contact with the child's parent/guardian. If law enforcement declines involvement at that time, the CFS worker will advise law enforcement of the outcome. Frequently, law enforcement aims to avoid alerting a suspect of a pending investigation. **When CFS is required by law to notify a custodial parent or guardian regarding a child sexual abuse allegation, the CFS worker will first notify the law enforcement officer of the intent to notify the custodial parent or guardian, giving law enforcement sufficient advance notice and the opportunity to engage in a multidisciplinary approach.**

C. Interview Reporting Adult(s)

CFS, together with law enforcement, whenever practically possible, should begin an investigation by speaking with the reporting party and other adult sources to determine if child sexual abuse *may* have occurred, including the following information:

1. Nature of the disclosure or discovery of possible abuse;
2. Jurisdiction;
3. Time frame of last contact (to determine if an acute medical exam is needed);
4. Identity or description of alleged offender; and
5. Assessment of immediate safety needs and parental protective capacity.

Interviews with witnesses and/or guardians should be conducted outside the presence of the suspected child victim. Minors (including teens) should NEVER be used as interpreters for the adult interview or to interpret when informing guardians about allegations.

D. Determine Whether a Minimal Facts Field Interview of a Child/Adolescent is Needed

If the First Responder(s) can determine the above information (Section VII.C) from an adult source(s), First Responders **should not interview or attempt to clarify the allegation** with the child/adolescent. Instead, inform the minor and legal guardian (unless there is a case-specific concern) about the need for a forensic interview and defer all interviewing of the minor to the MDT Forensic Interview that will take place at the Keller Center.

Well-established best practice in the investigation of child sexual abuse is to reduce duplicative interviews of the child by non-expert interviewers. Duplicative interviews are not trauma informed, can be distressing to victims and are not consistent with current best practices in forensic information gathering. Many investigations can be referred directly to the Keller Center for a forensic interview because in many cases of child or adolescent sexual abuse or assault, required basic information to begin an investigation is often initially made available through an adult source, as described above.

A brief, minimal facts field interview of the child/adolescent is needed **only** if:

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- the information listed in Section VII.C. above cannot be determined from adult sources; and/or
- CFS or law enforcement has immediate safety or protection concerns or other exigencies exist.

If possible, the decision regarding the need for a minimal facts interview should be made in consultation with CFS, DAO, and/or a Forensic Interview Specialist. In many circumstances, collaborative solutions to the exigent circumstance can be generated to allow for a full MDT Forensic Interview process rather than an exigent field interview by someone who is not a child interview specialist. If it is determined that a brief, minimal facts field interview is needed, the field interview should be conducted jointly with law enforcement whenever possible, utilizing San Mateo County "Minimal Facts Field Interview Outline for Suspected Child Sexual Abuse" as the template for conducting a brief field interview. (See Appendix 1 for this outline.) **The minimal facts field interview should be audio and/or video recorded by law enforcement.**

Even when a minimal facts field interview about possible sexual abuse is not needed, CFS workers may still be required by law to conduct a Global Assessment about child welfare needs and determine if there are any other factors impacting the immediate safety of the child. The Global Assessment must be an in-person contact with the child. The CFS social worker should contact the investigating law enforcement jurisdiction prior to making contact with the youth for this assessment and explore the best way to coordinate and determine if a joint response for this assessment is appropriate. CFS workers will consult with their supervisors to determine if a Global Assessment should be conducted prior to or after the MDT Forensic Interview. If it is determined that the Global Assessment should be conducted prior, CFS workers should not ask minors questions about possible sexual abuse and should defer those questions to the MDT Forensic Interview. If, during a Global Assessment, a child makes a spontaneous disclosure of suspected sexual abuse, the CFS worker should document the question that elicited the disclosure and the child's verbatim response and will advise law enforcement and the Forensic Interviewer about the disclosure.

E. Determine if there are Interview Exigencies

For the majority of cases, sufficient initial information can be gathered from adults; some cases will still need a minimal facts field interview of a minor, while awaiting a MDT forensic interview at the Keller Center. On very rare occasions, law enforcement may need other information prior to a scheduled MDT forensic interview. Every effort should be made to resolve the informational need by consulting with MDT partners (such as law enforcement, DAO, or Keller Center medical personnel or Forensic Interview Specialist) without a longer field interview of the minor. If the exigency cannot be addressed without a longer conversation with the minor, the law enforcement interview should be recorded and RTS should be called for accompaniment. In this rare circumstance, law enforcement and CFS can access the Keller Center facilities to utilize the interview rooms and recording equipment 24/7. At the earliest opportunity, law enforcement and CFS should

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consult with other MDT partners to assure that the victim and family needs have been met and consider how to proceed with a MDT forensic interview process.

F. Address Protection of the Child(ren)

Often, a safety plan can be devised that protects the safety needs of all involved and does not compromise an investigation. By working together with the caregiver, CFS and law enforcement can generate such a safety plan. Many cases are best served by making a short-term plan that allows for information gathering, scheduling of a MDT Forensic Interview, and protection of the child(ren) from further abuse until the MDT Forensic Interview. Collaboration is essential to ensure that both agencies' investigative needs are met, while recognizing that both agencies have different policies and practices.

Law enforcement aims to avoid alerting a suspect of a pending investigation. However, there are occasions when, by law, CFS needs to notify the custodial parent or guardian regarding a child sexual abuse allegation and doing so may result in alerting a suspect. In those situations, the CFS worker will first notify the law enforcement officer of the intent to notify the custodial parent or guardian, giving law enforcement sufficient advance notice and the opportunity to engage in a multidisciplinary approach. Throughout the case, the CFS worker will make every effort to consult with law enforcement prior to initiating contact with a family member who is named as a suspect in a law enforcement investigation or with other witnesses.

Some cases with immediate safety risk will require law enforcement or CFS to place the child(ren) in protective custody, pursuant to Section 300 of the California Welfare & Institutions Code. If it is unclear whether the child is at immediate risk but there is concern regarding the child's safety, the CFS worker may seek a protective custody warrant from the Juvenile Court judge or other on-call judge.

The following criteria should be used in assessing the need for protective custody:

- Whether the child(ren) is/are at risk for further abuse or harm;
- Ability of a non-offending parent or guardian to protect the child; and/or
- Need for immediate medical attention or forensic medical examination.

Once a judge orders a removal by signing a warrant, CFS will need to execute the warrant as soon as practically possible and a detention hearing will be scheduled within 72 hours. At the detention hearing, parents/guardians will be given information about the full nature of the investigation, even if the parent is a suspect. Timely collaboration between law enforcement and CFS is essential to plan accordingly.

G. Plan MDT Forensic Interview

See Section K for details regarding scheduling and attending the MDT Forensic Interview.

H. Determine if an Acute Medical Exam is Needed

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Law enforcement is responsible by statute for authorizing and paying for forensic medical exams when needed. As members of the MDT, CFS workers should be familiar with criteria, processes and considerations for acute and non-acute exams (see Law Enforcement Responsibilities, Section H, above). CFS workers should be aware of the considerations and time frames for obtaining acute medical exams and work with law enforcement to assure that children and adolescents are referred immediately or as soon as practically possible, if an acute exam is indicated. Additionally, there may be rare circumstances when law enforcement does not or cannot authorize a forensic exam but CFS needs to authorize one for dependency purposes, and CFS will be billed for this service.

I. Preserving other Evidence

As members of the MDT, CFS workers should be generally familiar with types of evidence relevant to law enforcement investigations (see Section VI.I.).

J. Assuring Victims' Rights

As members of the MDT, CFS workers should be generally familiar with rights afforded sexual assault victims in the criminal justice arena (see Section VI.J. and Appendix 5).

K. Schedule and Attend the MDT Forensic Interview at the Keller Center

The Keller Center is the designated facility for conducting a multidisciplinary forensic interview of a minor victim of any sex crime. A neutral, victim-centered setting and multidisciplinary response is associated with reduced trauma and enhanced service delivery. The multidisciplinary process that takes place when the MDT gathers at the Keller Center enables access to case consultation and effective service referrals based on collaboration and information sharing between law enforcement, child and family services, deputy district attorney, medical providers, advocates, forensic interview specialists.

If a referral meets CFS criteria, the assigned CFS worker should participate in the MDT Forensic Interview at the Keller Center.

1. Scheduling

a. MDT forensic interviews are available at the Keller Center during regular business hours.

b. A forensic interview should ideally be conducted at the Keller Center within one week of the initial report to law enforcement or CFS. In cases in which a child has been taken into protective custody or there is a case-related exigency, every effort will be made to conduct an MDT forensic interview at the Keller Center sooner than one week.

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c. MDT Forensic Interviews of suspected child or adolescent sexual abuse or assault conducted at the Keller Center may only be conducted by Forensic Interview Specialists and other MDT members who have had specialized training in conducting forensic interviews and participate in continuing education and peer review activities as defined by National Children's Alliance (NCA) Standards for Accredited Members. The Forensic Interviewer will be responsible for conducting a forensically sound, developmentally appropriate forensic interview in accordance with the methodologies and procedures outlined in this protocol and Appendices.

d. The law enforcement officer (unless otherwise agreed with the CFS social worker) will take primary responsibility for scheduling a Keller Center forensic interview at a mutually agreeable time. Attendance at the forensic interview is expected from both CFS and law enforcement, unless one agency has specifically declined to investigate the current allegations.

e. MDT Forensic Interviews should ideally be conducted in the child's primary language. For children of any age who have a monolingual Spanish-speaking guardian, the Spanish-English bilingual forensic interviewer should be utilized whenever feasible, even if the minor appears to speak conversational English. In this instance, law enforcement is responsible for securing an interpreter for the MDT in the observation room. If the Spanish-English bilingual interview specialist is unavailable, and for languages other than Spanish, law enforcement is responsible for securing an interpreter(s). It is acceptable for law enforcement to arrange for an interpreter from CFS. Best practice for ASL (American Sign Language) interpretation for deaf and hard-of-hearing individuals is to have two interpreters, one hearing and one from the deaf community.

f. To schedule a forensic interview, call the Keller Center during business hours at 650-573-2623. At the time of scheduling, investigators will be asked to provide:
   - Basic identifying and demographic information about victim, guardian and suspect and demographic information;
   - A brief summary of the allegation;
   - Information about developmental, language, cultural, or other considerations for the child or family;
   - Whether there are prior recorded statements by the victim (for example, if a minimal facts field interview was conducted due to exigent circumstances and/or child protection concerns). If there are recordings, these should be made available to the Keller Center forensic interview specialist who will be conducting the forensic interview with enough time to review the recording prior to the date of the scheduled interview;
   - Whether there are pieces of evidence that might be introduced in the forensic interview, and to bring these to the Keller Center. Examples include, but are not limited to: text messages, written statements, photographs, videos, etc.

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- Whether the minor who is reporting sexual abuse/assault is in custody or on probation, whether or not the offense is related to the reported sexual abuse, law enforcement should make every effort to notify the minor's counsel to inform them of the planned interview. Minors who are in custody should be transported to the Keller Center for their forensic interview. It is law enforcement's responsibility to coordinate these arrangements with the juvenile detention facility;
- Whether the District Attorney's Office support dog would be beneficial, if available;
- How the family will be transported to the Keller Center. If transportation to the Keller Center is a barrier for the family, law enforcement and/or CFS will provide transportation;
- Other relevant considerations.

g. The Keller Center will notify the District Attorney's Office, CFS Supervisors, Victim Services Division, and Rape Trauma Services of the appointment.

h. Presence in the interview room is usually limited to the minor, the interviewer, an interpreter if necessary, and a RTS Sexual Assault Counselor (SAC) when requested by the victim. The RTS SAC will provide accompaniment, support, and psychoeducation to family members in the Keller Center waiting room, as needed. Other Case Team members (such as law enforcement, CFS, DA, medical provider and interpreter, if needed for the team) routinely observe the interview live from the adjacent observation room. Other persons such as, but not limited, to trainees and the DAO facility dog handler, will be admitted to the observation room at the discretion and approval of the Case Team. Parents/guardians are discouraged from being in the interview room and/or observing from the observation room. Exceptions can be made on a case-by-case basis by Case Team consensus.

2. Other MDT Forensic Interview Considerations

a. In cases involving suspected sibling sexual abuse, CFS and law enforcement should work together to determine the best investigative plan, taking into account child ages, safety considerations, parental protective capacity, and both agencies' mandates.

b. Cases involving problematic sexual behaviors may be served well by the MDT process. CFS often needs to formally evaluate these concerns; a MDT Forensic Interview is an important tool, with law enforcement present to evaluate possible evidence of a related crime and to take custody of the recording. A MDT Forensic Interview process which also includes advocacy and mental health follow-up supports families and children who may have experienced trauma and abuse.

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Typically, these investigations should begin with an interview of the younger minor or complaining victim. Following that interview, the Case Team may consider a MDT Forensic Interview for the older/initiating minor on a case-by-case basis. In cases where charges may be considered, consultation with the Juvenile District Attorney is recommended. A MDT Forensic Interview is usually appropriate for initiating minors under age 12 who have engaged in problematic or developmentally atypical sexual behavior with a younger minor or same-age peer. MDT Forensic Interviews may also be appropriate for older minors, on a case-by-case basis. In circumstances in which charges might be filed, it is preferable for law enforcement and/or CFS to conduct those interviews. If, during any law enforcement or CFS interview, a minor discloses a history of sexual victimization, a MDT Forensic Interview should be scheduled at the Keller Center regarding the concern for sexual victimization.

c. If a minor recants a prior disclosure of sexual abuse or assault, consultation with the MDT is recommended. In many instances, an MDT Forensic Interview with a Forensic Interview Specialist will be appropriate.

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d. Suspects/alleged sexual assault offenders may not be present in the Keller Center at the same time as any child. Suspect interviews are not conducted at the Keller Center. See (b) above for considerations for minors with problematic sexual behaviors.

3. Preparing the child and family for the MDT Interview at the Keller Center

A key step in the success of the MDT investigation is adequate preparation for the MDT process at the Keller Center. The individual scheduling the interview, whether law enforcement or CFS, will instruct caregivers to:

a. Let the child know why they're going to the Keller Center (for example, to talk about what happened or to have their body checked).

b. Not question the child further about the allegations. However, if the child spontaneously makes statements, caregivers should listen, make note of the statements to inform the investigators, and reassure the child they will be able to talk about this more at the Keller Center.

c. Consider logistics for the family, such as snacks, anticipated length of interview appointment (2-3 hours), and the need to arrange childcare for siblings.

d. For adolescent victims, first responders are encouraged to share with families/guardians the minimal amount of information as practically possible about the allegations prior to the MDT interview, until the full team can assemble at the Keller Center to meet with adolescents and their guardians. If

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an adolescent requests to attend the MDT interview at the Keller Center without a guardian present, law enforcement and/or CFS will and will follow their own agency guidelines about how/whether to inform guardians and making transportation arrangements.

4. CFS Role During MDT Forensic Interviews at the Keller Center

a. If a case is open to CFS, the assigned CFS worker should be present to observe the forensic interview live.

i. The CFS social worker will come prepared with case-related documents and reports in order to participate in a pre-interview discussion and information exchange with other MDT members. The Case Team will use this information to plan the forensic interview.

ii. The law enforcement agency will take custody and control of the recorded interview. Should CFS later require a copy, the social worker will submit a written request for records, including for the recorded interview, to the law enforcement jurisdiction conducting the investigation.

iii. If a child's statement during an interview includes disclosure of acts which warrant a non-acute medical exam, it is the responsibility of law enforcement to consult with a member of the Keller Center medical team and to authorize an exam, when indicated. There may be rare circumstances when law enforcement does not or cannot authorize a forensic exam but CFS needs to authorize one for dependency purposes.

iv. The CFS worker will participate in post-interview discussion with other MDT members to discuss next steps in the investigation, including a post-interview discussion with adolescents and/or guardians to discuss next steps in the investigation and answer questions relevant to the investigation.

J. CFS On-going Investigation

The CFS worker will continue to investigate to ensure ongoing child safety and protection are in place and to determine the appropriate level of intervention from CFS. Additionally, the CFS worker will monitor the child's well-being and connect the child and family to services as needed.

K. On-going MDT Responsibilities for CFS

1. Attendance at monthly MDT Case Review

CFS Emergency Response supervisors will routinely attend the Child Sexual Abuse monthly MDT meetings/case review. It is during this monthly meeting that

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best practice ideas about multidisciplinary investigation of child sexual abuse and trauma-informed practices are discussed and announcements about county-wide practice updates are provided. CFS will be asked to present cases for case review. In this instance, the case-carrying social worker should make note of recommendations for follow-up from the case review.

2. Annual Collection of Statistics and Survey Data

   CFS shall provide annual statistics about the number of child sexual abuse/assault cases reported to their agency, in accordance with data collection requirements for NCA Accreditation.

   All MDT members will be requested to complete an anonymous Outcome Measurement System (OMS) survey twice annually to identify suggestions for MDT process improvements. Issues identified through the surveys will be discussed and considered by the Advisory Committee, who will report back to the MDT.

3. Protocol Training

   Children and Family Services will utilize training opportunities to teach the protocol to staff as appropriate. This includes regularly sending personnel to attend the county's 2-day training, especially those who participate or supervise someone on a MDT Case Team. CFS representatives serving on the Advisory Committee will also support the teaching and facilitation of the 2-day training.

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VIII. District Attorney's Office (DAO) Responsibilities

The District Attorney's Office (DAO) prosecutes criminal violators of the law in the courts of San Mateo County. Cases are referred by law enforcement agencies where the crime(s) occurred. Sexual assault prosecutors review police reports and decide whether criminal charges should be filed. If criminal charges are filed, it is the role of the DAO to prosecute the case according to California law. The goal is to secure an outcome which is equitable and just for the victim, the community, and the defendant, while factoring in the circumstances of the offense and the defendant's criminal background. As part of this process, the DAO seeks appropriate bail, asks for restitution, and provides services to victims and their families.

A. Role of the DAO during the MDT Forensic Interview

Whenever possible, a sexual assault prosecutor will observe the forensic interview at the Keller Center for the purpose of obtaining filing information and evaluating the child as a credible witness. During that interview, the sexual assault prosecutor will consult with law enforcement officers, CFS personnel, the forensic interviewer and medical personnel to determine the nature and extent of any supplemental investigation. When the case is later submitted for review by the investigating agency, all reasonable efforts will be made to assign the case to the sexual assault prosecutor who attended the MDT Forensic Interview.

When a sexual assault prosecutor is unable to attend the Keller Center interview in person, he or she will observe the recorded interview to evaluate witness competency and credibility and determine whether a filing decision can be made without a further interview of the victim. In unusual cases where the filing decision cannot be made from the digital recording, the sexual assault prosecutor will arrange for a follow-up interview with the child.

B. Prosecutorial practices

1. Case Priority: Prosecutors from the sexual assault unit are routinely available to consult with law enforcement throughout an investigation, to answer any legal and logistical questions about a case. Once formally referred, sexual abuse cases involving children should be aggressively prosecuted and moved through the system with as few delays and continuances as possible.
2. Vertical Prosecution: The DAO implements "vertical prosecution" in the handling of child sexual abuse offenses, whereby attorneys who are specially trained in the prosecution of these cases will attempt to keep the case from inception to completion in order to reduce trauma to the victim.
3. Designated Prosecutor Training: Sexual assault prosecutors who handle child sexual abuse cases will receive formal training offered by the California District Attorneys Association (CDAA) to increase understanding of distinct legal, procedural, and evidentiary issues involved in child sexual abuse cases.

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4. Privacy: The DAO makes every effort to protect the privacy of the victim when requested. In that circumstance, the victim's name will be redacted from the police report. The victim's name will not be used in open court, and the victim's address will only be disclosed to the defense attorney for legitimate discovery purposes. Sensitive photos will be disclosed only with a protective order.

5. Filing charges: The standard applied to a decision to file charges in any case is whether it is reasonably likely that a jury would unanimously find the defendant guilty beyond a reasonable doubt, based on the evidence known to the prosecutor at the time of the filing decision.

C. Communication with the Victim

1. Sexual assault prosecutors who attend MDT Forensic Interviews at the Keller Center meet the child and his or her family to answer questions about the legal process.

2. The sexual assault prosecutor, along with the VSD Victim Advocate, will ascertain the victim's concerns and wishes and consider them throughout the process and keep the victim advised of the progress of the case. Additionally, should dismissal of charges be required at any point, the prosecutor shall advise the victim of that necessity prior to the dismissal of the charges.

3. Nothing in this protocol is intended to prevent or discourage a sexual assault prosecutor who is preparing the case for trial or hearing from interviewing the child to develop rapport, introduce the child to the courtroom atmosphere, or discuss the child's anticipated substantive testimony.

D. Victim Rights

The sexual assault prosecutor will be knowledgeable of, and advise the sexual abuse victim, or his/her parent or guardian of his/her rights, including but not limited to:

1. The right to have a Sexual Assault Counselor or Victim's Services Advocate present at investigative interviews, medical exams and court proceedings, for crimes specified in PC 679.04. It is our county's best practice to offer victims the presence of a RTS Sexual Assault Counselor (SAC) and/or or Advocate from the Victim Services Division for all child sex offenses.

2. The victim's rights under Penal Code §680.2, Marsy's Law and California Constitution article I, § 28, section (b).

E. Defense access to victim

The sexual assault prosecutor or the VSD Victim Advocate shall advise the victim that he or she is not required to talk with anyone about the case, including the defense attorney

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and any defense investigator. The victim should also be advised that they can request to have a prosecutor, investigating officer, VSD Victim Advocate, or RTS SAC present during any meetings with the defense.

F. Court Preparation

In preparation for any necessary court appearance, the sexual assault prosecutor and VSD Advocate will discuss with the child and family the court process, the potential emotional impact, and take all reasonable steps to reduce any anxiety by showing the child the courtroom in advance of testimony including explaining the purpose and role of parties who will be present in court, offering the court facility dog and having VSD Advocate or RTS SAC accompaniment.

G. Victim attendance in court

A victim's required presence in court should be scheduled so as to avoid unnecessary waiting, or any unnecessary contact between the victim and the defendant or defense witnesses. Additionally, the victim should be advised of their legal right to have an advocate (RTS SAC and/or Victim Services Advocate) and/or support person(s) to accompany them. Finally, the sexual assault prosecutor will be aware of, and will utilize any appropriate procedures sanctioned by the California law to reduce trauma to the child/adolescent witness.

H. Ongoing MDT Responsibilities

1. Leadership of Advisory Committee:

The Supervising DA of the Sexual Assault Unit will serve as co-chair of the Advisory Committee.

2. Attendance at monthly MDT Case Review and Advisory Committee:

DAO representatives will participate in the monthly MDT Case Review to provide prosecutorial input on case discussions and share relevant case information. The DAO representative will take input from MDT members to inform prosecution and sentencing decisions. A DAO representative participates in the monthly MDT Advisory Committee, and subcommittees, as needed.

3. Annual Collection of Statistics and Survey Data:

DAO shall provide annual statistics about the number of child sexual abuse/assault cases reported to their agency, in accordance with data collection requirements for NCA Accreditation.

All MDT members will be requested to complete an anonymous Outcome Measurement System (OMS) survey twice annually to identify suggestions for MDT

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process improvements. Issues identified through the surveys will be discussed and considered by the Advisory Committee, who will report back to the MDT.

4. Protocol Training

   The DAO will utilize training opportunities to teach the protocol to staff as appropriate. This includes regularly sending personnel to attend the county's 2-day training. DAO representatives serving on the Advisory Committee will also support the teaching and facilitation of the 2-day training.

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IX. San Mateo Medical Center (SMMC) Responsibilities

A. SMMC provides and fully supports the physical space known as the Keller Center and needed supplies and materials.

i. The Keller Center has a child-friendly waiting room with appropriate toys and books.

ii. There are two interview rooms, designed for the needs of children and adolescents. Interview rooms are equipped with digital recording equipment and an observation room allows for live observation of forensic interviews by MDT members. The recording system also enables live, remote viewing at the District Attorney's Office.

iii. Two medical exam rooms are dedicated for use only by the Keller Center. SMMC provides all needed medical and forensic equipment, such as cameras, refrigerators, and alternate light sources, as well as access to Emergency Department, Radiology, Laboratory, and Pharmacy services. Environmental Services and the SMMC's Security department provide a safe environment for families. Medical interpreters are available by phone or video 24/7 in numerous languages for medical exams. HIV post-exposure prophylaxis is provided, as needed, if patients do not have medical insurance.

iv. Shared office space, equipment, and supplies are provided for the Program Coordinator, medical providers, and forensic interview specialists.

v. Safety procedures include:
- Suspects/alleged sexual assault offenders may not be present in the Keller Center at the same time as any child. Suspect interviews are not conducted at the Keller Center. See above for considerations for minors with problematic sexual behaviors.
- A panic button is available at the front desk to alert security for immediate assistance.
- Office spaces are equipped with security cameras that monitor the interior and exterior hallways and a mirror provides a visual of the Keller Center waiting room.
- The front door is always locked.

B. SMMC serves as the lead fiscal agent for the MDT. SMMC manages the regular contributions from each law enforcement agency and CFS, payments for the 2-day training, billing for exams, and contractors.

C. SMMC manages MOUs and Operational Agreements between SMMC and various partner agencies of the MDT.

D. SMMC hires and manages the Program Coordinator, medical providers, and SANE team.

E. Keller Center personnel responsibilities include:

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- Coordinate and schedule MDT Forensic Interviews with all related partner agencies;
- Coordinate, participate and facilitate MDT Case Review and Advisory meetings, including preparation of agendas, selection of cases and preparation of minutes;
- Facilitate appropriate information-sharing for follow-up services;
- Participate and lead MDT trainings and other subcommittees, as needed;
- Consult regarding the need for MDT Forensic Interviews and medical examinations;
- Perform child and adolescent sexual abuse and assault exams, and suspect exams;
- Maintain forensic medical records and serve as custodian of record for forensic medical reports;
- Provide expert medical case review and expert medical opinions;
- Conduct forensic interviews;
- Participate in pre- and post-MDT Forensic Interview case discussions;
- Perform case consultations, upon request of any MDT member;
- Facilitate Forensic Interview peer review;
- Participate in ongoing medical peer review;
- Act as a resource in the community for all local medical facilities and the general public;
- Provide education and community awareness regarding child abuse, together with partner agencies;
- Maintain the case tracking data base (see Appendix 7);
- Organize the county's 2-day MDT Training;
- Coordinate and lead special projects of the MDT;
- Coordinate revisions of the protocol and strategic plan;
- Coordinate on-going NCA statistics collection and re-accreditation process;
- Coordinate MDT members' attendance at trainings and conferences;
- Schedule and coordinate hospital-related policies regarding the county's support dog(s); and
- Other tasks and leadership as needed for the MDT.

F. Ongoing MDT Responsibilities

1. Attendance at monthly MDT Case Review and Advisory Committee

   Keller Center personnel participate in the monthly MDT Case Review to provide medical, forensic interviewing and programmatic perspectives for case discussions and share relevant case information. Keller Center representatives take input from MDT members to inform follow-up medical and forensic interview services, as needed. Keller Center representatives facilitate, lead and participate in the monthly MDT Advisory Committee, and subcommittees, as needed.

2. Annual Collection of Statistics and Survey Data

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Keller Center personnel shall provide and aggregate annual statistics about the number of child sexual abuse/assault cases reported to their agency, in accordance with data collection requirements for NCA Accreditation.

All MDT members will be requested to complete an anonymous Outcome Measurement System (OMS) survey twice annually to identify suggestions for MDT process improvements. Issues identified through the surveys will be discussed and considered by the Advisory Committee, who will report back to the MDT.

3. Protocol Training

The Keller Center will utilize training opportunities to teach the protocol to staff as appropriate. This includes regularly sending personnel to attend the county's 2-day training. Keller Center representatives serving on the Advisory Committee will also support the teaching and facilitation of the 2-day training.

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X. Rape Trauma Services (RTS) Responsibilities

In the context of the multidisciplinary team response, RTS provides child and adolescent victims and their non-offending family members information, support, accompaniment, advocacy, follow-up, and ongoing counseling services, throughout the life of a case. Attending to the developmental factors for each child or adolescent, RTS provides a trauma-informed approach to help victims and their families understand the dynamics of traumatic experiences as well as their natural capacities to heal. This empowerment/educational focus supports victims to gain access to innate capacities to function in daily life through stressful times, identifying available internal resources as well as external resources in their families, cultures and communities (to include the multi-systems response to victimization).

A. All RTS personnel have completed a comprehensive state-certified training giving them statutory standing as Sexual Assault Counselors (SACs). Their goal is to assist children, adolescents and families in crisis to navigate the multi-systems response which can be experienced as overwhelming and confusing. SACs understand that coordinated victim advocacy in the multidisciplinary context facilitates informed and chosen participation in investigation, prosecution, treatment and support services.

B. Advocacy, Follow-up and Ongoing Support: The critical role of the victim advocate is to educate clients, help them anticipate possible stressors, and ensure continued access to services. RTS provides services on a 24-hour, 7-day per week basis via the crisis line at (650) 692-7273.

C. Trauma-Informed Counseling Services: Sexual assault/abuse traumas are likely to profoundly impact child and adolescent victims and their families. Counseling is available to all CAC clients at no charge. RTS offers trauma-informed counseling in both individual and group settings. Counseling is provided by professionals who meet National Children's Alliance minimum standards for mental health providers. RTS also provides referrals to other mental health providers.

D. RTS responsibilities include assuring that victim's legal rights are protected. Information regarding the rights and services to which crime victims and their non-offending families or caregivers are entitled will be routinely explained (see Appendix 5).

E. The Sexual Assault Counselor (SAC) role during the examinations and interviews is not investigatory. SACs provide confidential support and advocacy during forensic medical examinations and interviews.

F. RTS is responsible for performing criminal background screens on all SAC volunteers prior to advocacy work at the Keller Center.

G. RTS' Advocacy role at the Keller Center during Child/Adolescent MDT Forensic Interview appointments:

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The Sexual Assault Counselor (SAC) role during child/adolescent forensic interviews is not investigatory. Confidential support and advocacy activities for victims by a SAC may include but are not limited to:

1. Meeting and orienting children, teens and their families at the Keller Center;
2. Providing advocacy, crisis intervention, accompaniment and support at all stages of investigation and prosecution to children, teens and their family members.
3. Providing silent support accompaniment during interviews to provide emotional support;
4. Providing education about the multidisciplinary response;
5. Providing information regarding counseling services available at RTS or other mental health treatment venues;
6. Providing referrals for other needed services, including information about the California Victim Compensation and Government Claims Board (CalVCB).

H. Advocacy roles/responsibilities of RTS after the MDT Forensic Interview

1. Advocacy follow-up calls:

   RTS makes at least three attempts to follow up with all families following their medical exam and/or forensic interview. RTS Advocates provide crisis intervention, offer advocacy with law enforcement, Child and Family Services, Victim Services Division and, if needed, create a case management plan, including mental health services, as appropriate.

2. Consultation with VSD on follow up:

   During follow-up, advocacy and case management, RTS consults with VSD to ensure non duplication of efforts, to exhaust all victim services available, and to ensure criminal justice notifications under Marsy's Law are maintained.

3. Providing exit package:

   Following the post interview meeting with MDT partners, parents and survivors are offered a confidential meeting with their RTS Advocate. During this meeting, if a disclosure was made, the Advocate reviews an exit packet with the family, including information on Cal VCB applications. At that time, a follow-up plan may be offered.

I. RTS will participate in service partner meetings to coordinate and track mental health referrals and follow-up, as needed.

J. Ongoing MDT Responsibilities

1. Attendance at monthly MDT Case Review and Advisory Committee:

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RTS representatives will participate in the monthly MDT Case Review to provide victim advocacy and trauma-informed perspectives on case discussions and share relevant case information and treatment progress outcomes in accordance with privilege and confidentiality guidelines and relevant case law, as well as perspectives on child trauma and evidence-based treatment practices. The RTS representative will make note of recommendations for RTS follow-up from the case review. RTS Executive Director and Program Director participate in the monthly MDT Advisory Committee and subcommittees, as needed.

2. Annual Collection of Statistics and Survey Data:

   RTS shall provide annual statistics about the number of child sexual abuse/assault cases reported to their agency, in accordance with data collection requirements for NCA Accreditation.

   All MDT members will be requested to complete an anonymous Outcome Measurement System (OMS) survey twice annually to identify suggestions for MDT process improvements. Issues identified through the surveys will be discussed and considered by the Advisory Committee, who will report back to the MDT.

3. Protocol Training

   RTS will utilize training opportunities to teach the protocol to staff as appropriate. This includes regularly sending staff to attend the county's 2-day training. RTS representatives serving on the Advisory Committee will also support the teaching and facilitation of the 2-day training.

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XI. San Mateo County Victim Services Division (VSD)

The San Mateo County District Attorney's Victim Services Division (VSD) provides support and services to victims and their families regardless of the status of criminal charges. Services are free of charge and are provided from the moment a crime occurs until they are no longer needed.

A. Role of the Victim Services Advocate on the MDT

1. Upon receiving a victim referral, most commonly in the form of a police report, CFS report or attendance at a MDT Forensic Interview, a Victim Services Division Advocate will reach out to the minor victim and/or the parent/guardian to offer support and services.
2. A Victim Services Advocate or representative from the Victim Services Division will attend and participate in MDT meetings and will be an active member of the MDT Advisory Committee.
3. Upon contact with a victim/parent/guardian, a Victim Services Advocate will:
    a. coordinate with MDT partners (law enforcement, the Keller Center, RTS, CFS, BHRS, probation, and the assigned prosecutor etc.) and other community partners to provide services to a victim/parent/guardian in a timely, trauma-informed and culturally sensitive manner;
    b. provide multilingual services to the victim/parent/guardian;
    c. assess the immediate needs of the victim/parent/guardian (i.e. provide crisis counseling, safety plan, identify emergency shelter/relocation options, and provide referrals);
    d. act as a liaison between the victim/parent/guardian and law enforcement, the prosecutor, probation, etc.;
    e. educate, inform and assist the victim/parent/guardian with the enforcement of victim's rights;
    f. assist the victim/parent/guardian with completion and filing of an application for crime victim compensation through the California Victim Compensation and Government Claims Board (CalVCB);
    g. help the victim/parent/guardian understand the criminal justice system and court proceedings, provide court updates, provide court support, assist with preparing a victim impact statement at sentencing; and
    h. As needed and requested, provide regular follow-up to the victim and parent/guardian.
4. VSD will participate in service partner meetings to coordinate and track mental health referrals and follow-up, as needed.

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B. Ongoing MDT Responsibilities

1. Attendance at monthly MDT Case Review and Advisory Committee

   VSD representatives will participate in the monthly MDT Case Review to provide victim advocacy perspectives on case discussions and share relevant case information. The VSD representative will make note of recommendations for VSD follow-up from the case review. The VSD Program Manager participates in the monthly MDT Advisory Committee, and subcommittees, as needed.

2. Annual Collection of Statistics and Survey Data

   VSD shall provide annual statistics about the number of child sexual abuse/assault cases reported to their agency, in accordance with data collection requirements for NCA Accreditation.

   All MDT members will be requested to complete an anonymous Outcome Measurement System (OMS) survey twice annually to identify suggestions for MDT process improvements. Issues identified through the surveys will be discussed and considered by the Advisory Committee, who will report back to the MDT.

3. OES Grant Management

   VSD serves as the implementing agency for the Office of Emergency Services (OMS) MDT Grant.

5. Protocol Training

   VSD will utilize training opportunities to teach the protocol to staff as appropriate. This includes regularly sending personnel to attend the county's 2-day training. VSD representatives serving on the Advisory Committee will also support the teaching and facilitation of the 2-day training.

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XII. Behavioral Health and Recovery Services (BHRS)

Behavioral Health and Recovery Services is the provider of mental health services for children with public insurance. Additionally, BHRS works collaboratively with CFS to ensure that the child/youth victims are connected to appropriate treatment services. BHRS will appoint one or more representatives to be the main liaisons, or Points of Contact, for the MDT.

A. Keller Center communicates with the BHRS Point of Contact to screen a potential referral to a BHRS clinician. The Point of Contact will receive general referral information and determine the appropriateness of the referral for a BHRS clinician. As part of BHRS services, eligibility and payment resources will be assessed, including, but not limited to Health Plan of San Mateo County and Medi-Cal. If the client has private insurance and an open CFS case, the BHRS Point of Contact will connect with the CFS Point of Contact to confirm status of the case and process accordingly.

B. The following are potential mental health services available to Keller Center clients:
   - The Child Welfare Mental Health team is available to provide mental health assessments and short-term crisis stabilization for children who enter foster care and are referred by a social worker who works with the family. Linkages to ongoing services are made once clients are appropriately assessed.
   - For children ages 0-5, referrals for ongoing treatment can be made by the social worker to the Partners for Safe and Healthy Children Program, a collaborative program among BHRS, Family Health Services, and CFS.
   - Should the Keller Center staff determine that a client requires an immediate evaluation due to a behavioral health crisis, such as a client expresses suicidal or homicidal ideation, the Keller staff will contact the Psychiatric Emergency Services (PES) phone number (650) 573-2662. Keller Center staff will identify themselves with the PES staff and proceed to request a consult with the BHRS Youth Case management on-duty staff. The BHRS Youth Case Management on-duty staff will contact the Keller Center staff and determine appropriate next steps. If appropriate, the BHRS on-duty staff will come to the Keller Center to gather information from the Keller Center staff and interview the client to determine if there is enough concern about the safety of the client to indicate a further assessment at PES. If the client is taken to PES for a more thorough assessment, the BHRS on-duty will conduct a more thorough assessment along with the PES staff and determine if further hospitalization or a psychiatric hold is appropriate.

C. As part of the assessment process for CAC clients, trauma-informed supportive services for available caregivers are provided if determined appropriate. Such services may include family therapy, dyad therapy, case management, psychoeducation, and collaterals.

D. The BHRS Point of Contact will participate in service partner meetings to coordinate and track mental health referrals and follow-up, as needed.

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E. Ongoing MDT Responsibilities

1. Attendance at monthly MDT Case Review and Advisory Committee

   BHRS representatives will participate in the monthly MDT Case Review to provide trauma-informed perspectives and information on evidence-based mental health practices during case discussions. They will share relevant case information and treatment progress outcomes in accordance with client confidentiality and applicable case laws. The BHRS representative will make note of recommendations for BHRS follow-up from the case review. The BHRS Manager participates in the monthly MDT Advisory Committee, and subcommittees, as needed.

2. Annual Collection of Statistics and Survey Data

   BHRS shall provide annual statistics about the number of child sexual abuse/assault cases reported to their agency, in accordance with data collection requirements for NCA Accreditation.

   All MDT members will be requested to complete an anonymous Outcome Measurement System (OMS) survey twice annually to identify suggestions for MDT process improvements. Issues identified through the surveys will be discussed and considered by the Advisory Committee, who will report back to the MDT.

3. Protocol Training

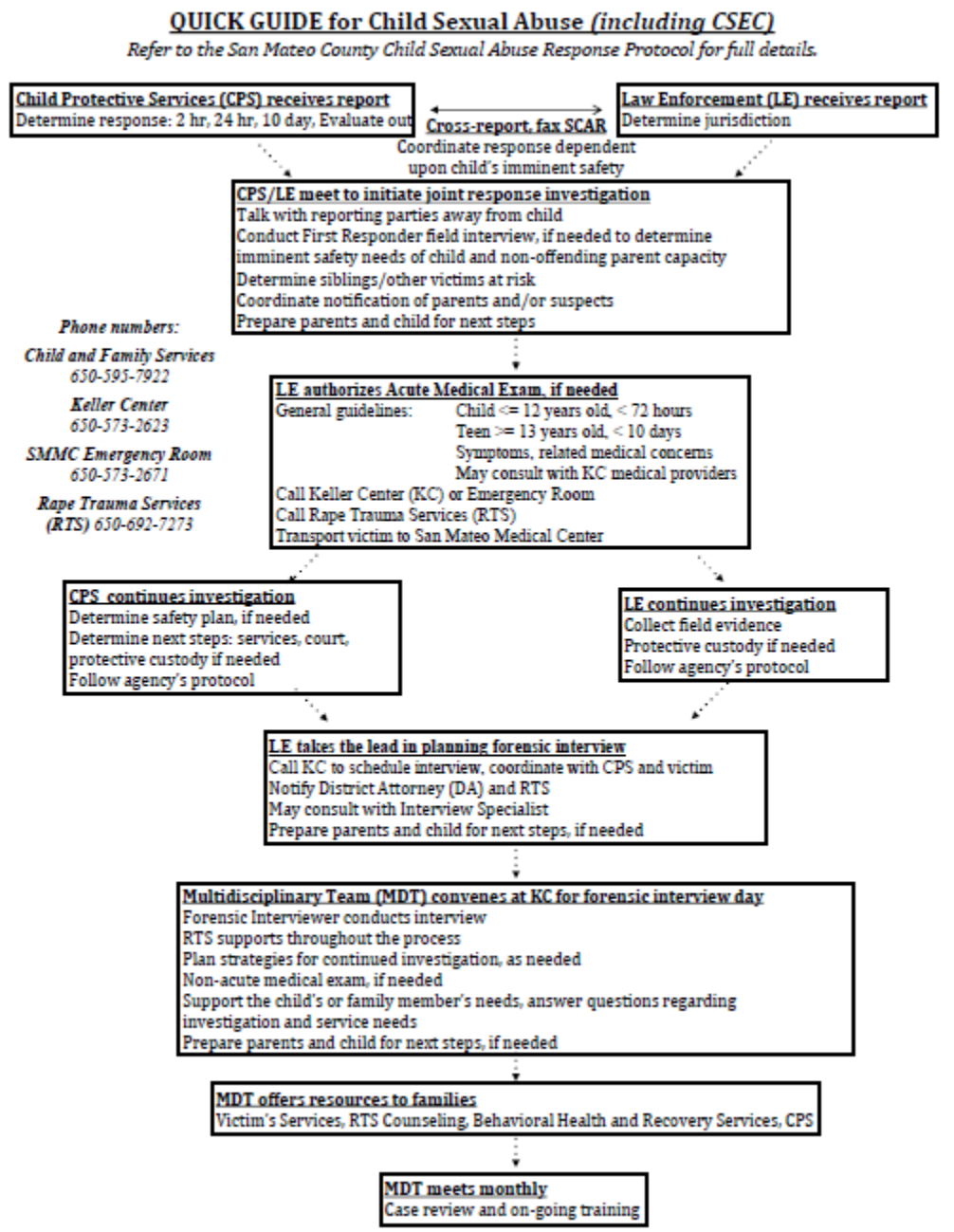
   BHRS will utilize training opportunities to teach the protocol to staff as appropriate. This includes regularly sending key personnel to attend the county's 2-day training. BHRS representatives serving on the Advisory Committee will also support the teaching and facilitation of the 2-day training.

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XIII. Appendices

Appendix 1. Quick Guide and First Responder Minimal Facts Field Interview Outline

This 2-page document is available in full-size on LawNet and from the Keller Center. It is intended to be produced back-to-back and laminated for use in the field.



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SAN MATEO COUNTY
FIRST RESPONDER MINIMAL FACTS INTERVIEW OUTLINE
FOR SUSPECTED CHILD SEXUAL ABUSE
*****UPDATED February 2020*****

BEFORE PROCEEDING: DETERMINE WHETHER THERE IS A NEED FOR A FIELD INTERVIEW!!!

- If the initial field report includes basic facts about alleged sex abuse (Who, What, Where) and there is no concern about parental protective capacity or immediate safety, DO NOT conduct a field interview and defer interviewing of the child to the MDT Forensic Interview at the Keller Center.
- If the initial field report does *not* include basic facts about alleged sex abuse (Who, What, Where) or if child needs to be interviewed to determine parental protective capacity or immediate risk, utilize the outline below.
- If it is necessary to conduct a field interview, a joint response with law enforcement and CPS is optimal. The interview should be recorded by law enforcement.

1. RAPPORT BUILDING

- My name is… My job is… (to help kids/families, to help kids be safe, etc.)
- I want to get to know you better.
- Talk about everyday things and topics that interest the child.
- Tell me about things you like to do.
  - You said you like X (e.g. soccer). Tell me more about X.

2. TRANSITION TO PRESENTING CONCERNS.

(Ask questions in the presented order. If a child makes a disclosure, do not ask additional questions; move on to #3.)

- Tell me what happened that I came to talk to you today… It's really important that you tell me what happened that I came to talk to you today.
- I help kids with problems; I heard you might have had a problem with someone...
- Is someone worried about you? What is X worried about?
- I heard that someone might have bothered you. Tell me about that.
- I heard you saw/talked to (person to whom child disclosed); tell me what you talked about.

If child does not make a statement using these questions, end the interview and defer further questioning of the child to the MDT Forensic Interview at the Keller Center.

3. IF THE CHILD MAKES A GENERAL STATEMENT ABOUT POSSIBLE SEXUAL ABUSE IN RESPONSE TO ONE OF THE QUESTIONS IN #2 ABOVE, BUT YOU STILL REQUIRE SOME OF THE BASIC FACTS (WHO, WHAT, WHERE), AS NEEDED, ASK:

- You said X (repeat child's exact words e.g. "Richard touched my private.")
  - What happened?
  - Where were you?
  - When was the last time you saw X? (A time frame is needed to determine the need for acute exam, but time questions may be challenging for younger children. Obtain from an adult source whenever possible.)

Once you have basic facts that suggest that sexual abuse may have occurred, STOP the fact-finding portion of the interview; proceed to #4 to assess immediate safety and caregiver protective capacity.

Do not pursue questions about private parts, touching, numbers of times abuse occurred, good touch/bad touch, inside/outside, though you should document any spontaneous statements the child makes about these topics. Do not suggest the name of a suspect unless the child has already provided a name.

4. ASSESS PARENTAL PROTECTIVE CAPACITY/IMMEDIATE SAFETY

- Who knows about X? Do mom/dad/guardian know? How does mom/dad/guardian know?
- What did mom/dad/guardian do? What did mom/dad/guardian say?

5. CONCLUDING THE INTERVIEW

a. Thank child for talking with you.
b. Answer questions/concerns.
c. Explain next steps to parent and child, including age appropriate description of the Keller Center, the MDT Forensic Interview and/or medical-legal exam.

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Appendix 2. Forensic Medical Examinations

A. Purpose of a Forensic Medical Examination (also referred to as a Medical Legal Exam, or MLE) for suspected child or adolescent sexual abuse or assault:

1. To ensure the health, safety, and well-being of the child;
2. To identify and document physical evidence of sexual abuse;
3. To differentiate medical findings indicative of abuse from other medical conditions;
4. To treat medical problems resulting from the abuse;
5. To diagnose, document, and address medical conditions unrelated to abuse;
6. To provide assessment of any health consequences resulting from the abuse;
7. To assess the child for any developmental, emotional, or behavioral problems needing further evaluation and treatment, and make referrals as necessary;
8. To educate and answer questions from the child and the family; and
9. To provide information to law enforcement, investigative social workers, deputy district attorneys, and judges about physical findings.

B. Forensic Medical Examination Processes

1. **See Section VI.H. for referral criteria and detailed information on acute Medical-Legal Exams, acute exams for non-reporting victims, non-acute Medical-Legal Exams, and suspect exams.**
2. The CAC will provide appropriate medical evaluation and treatment for all CAC clients.
3. Forensic medical examinations are authorized by law enforcement or CFS and documented on the appropriate CalOES Forensic Medical Report form.
4. Photo-documentation will be completed in accordance with the Keller Center's Photographic Evidence Procedures.
5. Evidence collected will be labeled, packaged, and stored using materials provided by the San Mateo County Forensic Laboratory and SMMC, in accordance with current standards for evidence collection.
6. Emergency contraception will be offered when indicated.
7. Testing and/or preventive treatment for STIs, including HIV, will be offered when indicated.
8. Medical providers will work to coordinate follow-up care, as needed, with a minor's primary care provider or other accessible option for the minor/family.
9. Medical providers will distribute a Sexual Assault Survivor Rights Card.
10. In the event a sexual assault victim is unable to be transported from another hospital to the Keller Center for an acute forensic exam, a Keller Center medical provider is authorized to perform forensic medical legal exams at sites outside San Mateo Medical Center. The exam will be done as early as feasible. The Keller Center examiner will ensure that RTS has been notified of an off-site forensic exam.

C. Consent for Forensic Medical Examinations and Parental Notification

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Medical providers at SMMC follow applicable California laws and regulation, including but not limited to California Family Code §§ 6927, 6928; California Health & Safety Code §§ 123110(a), 123115(a) (1); and California Civil Code §§ 56.10, 56.11.

No minor will be forced to have a medical examination.

In the event that a parent/guardian of a child under age 12 is not available, or a parent/guardian refuses to allow a medical examination and law enforcement has reason to believe that the child has been abused by the parent/guardian or someone the parent/guardian is protecting, law enforcement or CFS may seek a court order to allow the exam at the Keller Center.

D. Medical Providers

Child sexual abuse forensic medical evaluations for children and adolescents will be performed by a pediatrician, nurse practitioner, physician assistant, or Sexual Assault Nurse Examiner (SANE) with specialized training.

E. Billing for Forensic Medical Examinations

Forensic sexual abuse/assault examinations, which include some assault-related medical care, are billed to the referring investigating agency. Clients are never billed for the cost of a forensic medical examination. Additional charges incurred for treatment of injuries or medical concerns may be billed to a patient or insurance, and patients can be referred to Victim Services Division for assistance with reimbursement.

F. Review Process

All medical examination documents and photographs will be reviewed by the team of medical providers, and findings from the review will be communicated with the investigating agencies.

G. Records

1. The Keller Center will serve as the custodian of records for all forensic medical reports, photo reviews, and photographic documentation.
2. SMMC will serve as the custodian of records for all medical care as documented in the hospital's electronic medical record.
3. The forensic medical exam report and supporting documentation will be scanned to a secure drive, the Keller Forensic Files. The original medical exam paper report will be destroyed. Digital evidence on the Keller Center Forensic files secure drive will be maintained in perpetuity.
4. Photographic evidence will be digitally stored on the secure drive with Keller Forensic Files. A CD of photographic evidence will be burned and stored in the Keller Center archives in perpetuity.

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Appendix 3. Forensic Interview Methodology

The purpose of this appendix is to describe the approach to MDT Forensic Interviewing conducted in San Mateo County and to address practices not described elsewhere in the Protocol.

A. What is a MDT Forensic Interview?

A MDT Forensic Interview of a child is "…a developmentally sensitive and legally sound method of gathering factual information regarding allegations of abuse or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing research and practice-informed techniques as part of a larger investigative process" (Office of Juvenile Justice and Delinquency Prevention [OJJDP] Juvenile Justice Bulletin, 2015). MDT Forensic Interviews are distinguished from First Responder interviews, or Minimal Facts interviews, that may take place during an initial response to ascertain whether a crime has been committed and to address immediate child protection issues and law enforcement or CFS-related exigencies.

B. Who may conduct a MDT Forensic Interview at the CAC?

The following individuals may conduct a MDT Forensic Interview at the CAC:

1. A Keller Center Forensic Interview Specialist (FIS) who meets the following criteria:

Minimum qualifications:

- Possess a master's degree in social work, psychology, marriage and family therapy, nursing or related field, or equivalent work experience; independent contractors must possess a valid California license in their field of study;
- Demonstrated knowledge and understanding of the multidisciplinary team approach to child abuse investigations;
- Demonstrated understanding of child development, dynamics of abuse, sexual assault and family violence; and familiarity with the criminal justice and dependency systems.

Initial Forensic Interview training:

- Satisfactory completion of California's Child Forensic Interview Training (CFIT) or equivalent NCA-recognized 32+-hour training in an NICHD-derived (National Institute of Child Health and Human Development) Forensic Interview Protocol;
- Satisfactory completion of a Forensic Interviewer initial training plan that includes mock interviews, observing a minimum of 10 interviews conducted by an experienced FIS, reading of assigned literature and watching webinars;
- Satisfactory completion a minimum of 20 precepted interviews (with live observation by an experienced interviewer);

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- Keller Center Forensic Interview Specialists who have completed this initial training plan may conduct MDT Forensic Interviews for all ages of minors, as well as adults with special needs. Within six months of employment, Keller Center FISs will complete a training module (live or webinar, or individual tutorial with the Director of Forensic Interviewing) on adaptations to interviews involving CSEC youth and/or cases involving presentation of digital evidence.

Ongoing training/mentoring:

- Participation in Structured Peer Review which includes a literature review component in the field of forensic interviewing, a minimum of 8 times/year, as a matter of quality assurance; and
- Continuing education in the field of child maltreatment or forensic interviewing consisting of a minimum of 8 contact hours every 2 years.

2. A MDT member who meets the following minimum criteria:

- Satisfactory completion of California's Child Forensic Interview Training (CFIT) or equivalent NCA-recognized 32+-hour training in an NICHD-derived Forensic Interview Protocol;
- Participation in Structured Peer Review a minimum of 2 times/year as a matter of quality assurance;
- Continuing education in the field of child maltreatment or forensic interviewing consisting of a minimum of 8 contact hours every 2 years.

C. Documentation

Forensic Interviews are digitally recorded, with rare case-specific exceptions. See Appendix 4 for the recording procedures.

Forensic Interviewers may take notes and/or ask children/teens to write or draw during the interview. Any case related writing or drawing produced during the interview will be turned over to law enforcement and will not be retained by the Keller Center.

D. MDT Forensic Interview Process

The San Mateo County MDT Forensic Interview process includes:

1. Preparation:

At the time of scheduling, consideration is given to:

- case-specific considerations, including but not limited to language, development, religious or cultural needs of the family, timing of the interview, selection of appropriate interviewer, facility dog accompaniment, etc.;

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- whether a First Responder Minimal Facts Field Interview was conducted and recorded. If so, law enforcement is asked to make the recording available for the FIS to review prior to the MDT Forensic Interview in order to reduce duplication and to inform the pre-interview planning with the Case Team;
- whether digital or other evidence (texts, social media evidence, photographs or other) is available and whether such evidence is likely to be presented during the MDT Forensic Interview; and
- whether the youth is identified as CSEC.

2. Pre-Interview Planning: Immediately preceding an MDT Forensic Interview, the FIS and Case Team meet to establish a mutual understanding of the reason for referral and interview and plan case-specific questions. Additionally, the FIS may meet with the caregiver(s) of young children and individuals of any age with special needs to obtain information, such as: the child's communication and language abilities; relevant developmental, medical or mental health information; circumstances of disclosure if not known by the Case Team; what the child has been told about the purpose of the interview; details of a recently experienced neutral event for purposes of Narrative Event Practice with the child; or other relevant information. Pre-interview caregiver meetings are conducted together with or observed by Case Team members.

   While the Case Team plans the interview, a victim advocate greets the child(ren) and their non-offending family member(s), shows them the interview room and briefly explains the interview process.

3. MDT Forensic Interview: The FIS conducts the MDT Forensic Interview in accordance with the Interview Approach detailed below. Before concluding the interview, the interviewer will take a break to consult with the Case Team in the observation room about what, if any, additional inquiries need to be made. A break also serves to provide the child with an opportunity to reminisce in order to add to or amend statements made during the interview. The interview is recorded and retained in accordance with the procedures outlined in Appendix 4.

4. Post-interview Case Team meeting: After the MDT Forensic Interview, the Case Team meets to discuss next steps for each agency, including how they will continue to collaborate and coordinate. Such discussions may include, but are not limited to:

   a. whether any additional MDT Forensic Interviews should be scheduled, for this child or other identified potential victims, witnesses, and/or children at risk;
   b. coordination of other witness interviews, as appropriate;
   c. consultation and/or referral with a Keller Center medical provider regarding health-related concerns and/or a forensic medical examination;
   d. evaluation of child safety and risk and parental protective capacity, including whether protective custody may be indicated;

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e. next investigative steps for each investigative agency including timeframes or upcoming court requirements; and

f. mental health and advocacy referrals.

5. Post-interview Case Team meeting with minor and/or family: The Case Team meets with the minor and/or family to answer questions and discuss next steps, as appropriate for the investigation.

6. Provision of referrals and resources: The victim and/or family is provided with an exit packet which includes referrals for mental health and advocacy services.

7. In the rare event a minor cannot be interviewed at the Keller Center, a Keller Center Forensic Interview Specialist is permitted to conduct a MDT Forensic Interview at sites outside San Mateo Medical Center. The Keller Center will ensure that RTS has been notified of an off-site MDT Forensic Interview.

E. Forensic Interview Approach

1. Methodology/Model

Keller Center Forensic Interview Specialists and MDT members who conduct forensic interviews specialists are trained in CFIT (California Forensic Interview Training) or other similar approach such as those known as APSAC (American Professional Society on the Abuse of Children), NCAC (National Children's Advocacy Center) or NICHD. While all interviewers are initially trained in one of these "models", increasingly, the research base in forensic interviewing recognizes that "one size does not fit all." Interviewers are now encouraged to obtain training in a variety of interview models and to utilize a "toolbox" of evidence-based techniques which incorporate emerging research and consensus-based best practices, individualized to the needs of the child and the case (Saywitz, Lyon and Goodman, 2017; Poole, 2016; OJJDP, 2015). Our interview structure reflects these generally accepted best practices and typically includes:

- An initial rapport-building phase that includes: introductions and explanation of interviewer role and documentation; interview instructions including eliciting a promise to tell the truth; and an initial rapport-building phase.

- Narrative event practice, also known as episodic memory training, in which the interviewer explores neutral, personally experienced events utilizing question design strategies that will be used throughout the interview.

- The allegation, also known as the substantive, phase generally includes a narrative description of events, detail-seeking strategies, clarification, and case-specific testing of alternative hypotheses, when appropriate. Interviewers generally utilize prompts from Tom Lyon's 10-Step Interview model to transition to the allegation phase and, as needed, case-specific prompts.

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- The closure phase transitions back to neutral topics and allows for questions and an explanation of next steps

2. Use of interview aids

   Our interview room is typically equipped with "comfort media" (paper, crayons/markers, play-doh). In research studies, comfort media has not been associated with any negative impact and, in fact, may serve to increase rapport and diminish anxiety, while providing useful developmental information (Faller, 2007; Katz, Barnetz, & Hershkowitz, 2014; Pipe & Salmon, 2002; Poole & Dickinson, 2014). During the allegation-focused portion of the interview, comfort media may be used for "facilitated drawing" in which a child spontaneously draws an aspect of their report, or whereby an interviewer instructs a child to "Draw and tell" to facilitate recall and expression (Brown, 2011; Katz & Hershkowitz, 2010; NCAC). While not disallowed, Human Figure Drawings (HFDs) are not recommended as a common practice. Because research on the incorporation of HFDs is inconclusive, we generally utilize HFDs as needed to clarify details about an event already under discussion when other attempts at clarification have been exhausted (Aldridge et al., 2004; Brown, Pipe, Lewis, Lamb, & Orbach, 2007; APSAC 2012; NCAC 2017). The Case Team will be consulted when HFDs are being considered, with the decision to introduce or not made by the Forensic Interview Specialist.

3. Use of interpreters

   We appreciate the importance of language on perception of experiences, memory formation, and ability to express oneself comfortably, thoroughly and accurately. Children should always be interviewed in their dominant language, if other than English. Spanish-speaking children/teens are assigned to a Spanish speaking/bilingual interviewer, and one of the investigative agencies provides an interpreter for the Case Team who is observing. For other languages, we utilize an interpreter in the interview room, provided by one of the investigating agencies. San Mateo County MDT does not require the interpreter to be court-certified; when an interview will be conducted with an individual who communicates with American Sign Language (ASL), law enforcement is encouraged to secure certified interpretation services. If an interpreter will be assisting in the interview room, the interpreter meets with the forensic interviewer prior to the interview to strategize.

4. Introduction of Evidence

   Evidence such as texts, emails, chat logs, letters, diaries, photos, etc. may be introduced in an MDT Forensic Interview on a case-by-case basis. All Keller Center Forensic Interview Specialists receive training in presenting evidence and follow principles developed and recommended by national organizations such as APSAC, Forensic Bureau of Investigations (FBI) and Homeland Security Investigation (HSI). While these agency models are not identical, each values "preparing" children that the interviewer possesses a piece(s) of evidence and prior to its introduction, "predicting" or describing for children what they may see. When such evidence exists

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in a case, discussion of whether and how to present it is part of pre-interview MDT planning, with the final determination made by the Forensic Interview Specialist.

We follow similar practices in cases in which there is digital or photographic images of possible child abuse. Cases with child abuse images present unique challenges. It may be unclear whether the images are actual depictions of abuse involving the child or edited to simulate the appearance of sexual contact. Images may not capture the totality of a child's sexual abuse experiences and being informed about and/or viewing images may have unique impacts on the child. Therefore, specific thought and planning is necessary regarding whether and which images to select and present.

Keller Center Forensic Interview Specialists should assist the investigators in selecting and preparing a limited number of images that reflect needed case-specific information. We strongly discourage the presentation of videos; instead, interviewers and investigators should jointly choose selected "screen shots" to present that can focus inquiries on needed information, such as identifying people in the images, how the recording was made and by whom, and specific activities, as appropriate. Unsanitized images are preferred as sanitizing may convey to a child that the interviewer is uncomfortable with the images or that there is a shameful aspect to the images. Post-it notes may be utilized to cover the parts of the photo, such as genitalia, so that the child has more control over whether or when to view them.

Ongoing consideration should be given as to the purpose of showing the evidence and the potential impact on the child. Even when the Case Team agrees and plans for child abuse images to be introduced, the final determination or whether and how to introduce images will be made in real-time by the Forensic Interview Specialist who will carefully monitor the child's responses and will be guided by "child first", not "case first" principles, and in accordance with consensus-based best practices (NCAC, 2013; OJJDP, 2015). As noted above, as part of their initial training, all Keller Center Forensic Interview Specialists will receive training in presenting evidence including child abuse images.

The law enforcement investigator responsible for the case shall maintain full custody and control of the original evidence/child abuse images. Hard copies—not originals—should be printed for presentation during the interview and hand-delivered to the FIS. Child abuse images should never be delivered to the Keller Center FIS through email. The FIS will immediately return the hard copies to the investigators upon conclusion of the interview.

5. Determination criteria for follow-up or multi-session interviews

Reducing duplication in interviews is a primary principle of forensic interviewing and multidisciplinary collaboration. A single-interview doctrine was considered best practice in the early development of many forensic interview models and remains appropriate and effective with many children. More recent research and guidelines demonstrate the potential benefits of multiple, non-duplicative interviews, especially when conducted by the same interviewer, following good questioning practices (La

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Rooy, Lamb, & Pipe, 2009; La Rooy, Katz, Malloy, & Lamb, 2010; APSAC, 2012; OJJDP, 2015; Waterhouse, Ridley, Bull, & La Rooy, 2016). Follow-up interviews may be appropriate for an interviewee who:

- is young and has difficulty separating from a caregiver;
- is extremely reluctant or traumatized and could benefit from additional rapport building time;
- has special needs;
- has extensive abuse experiences that cannot be fully explored within a single interview;
- when the initial interview was not in the child's dominant or primary language;
- when new information or evidence arises during an investigation, when there is a recantation, or when a child requests to return; or
- the MDT determines could benefit from a follow-up interview(s).

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Appendix 4: Recording and Storage of MDT Forensic Interviews

Forensic interviews of children at the Keller Center will be digitally recorded, unless the child or child's guardian refuses or the MDT determines recording would be detrimental or distressing for the child.

The following procedures provide specific guidelines and protection for the creation, transfer and use of the Keller Center forensic interview digital recording system. The protection of the child victim's right to confidentiality must be respected in the handling of these recordings, while complying with the rules of criminal discovery in court proceedings.

Interviews are recorded live directly onto a secure hard drive. At the conclusion of the interview, official copies are made on DVD or USB. **Law enforcement takes possession of the digital recording, which is the official evidentiary record. The Keller Center is NOT the custodian of records for recorded forensic interviews. The hard drive will be periodically expunged due to storage limitations.** The Keller Center will not retain copies of interview recordings, with one exception: from time to time, Forensic Interviewers may burn a copy of an interview DVD/USB for peer review or training purposes. When used for peer review or training, the DVDs/USBs will not be marked with client names or case numbers. They will be maintained securely in a locked room.

A. Equipment Use: It is the shared responsibility of the investigating police officer and the CFS worker to activate and operate the digital recording equipment according to instructions posted in the observation room. The Keller Center will provide DVDs for all interviews; law enforcement is responsible for bringing USB drives if that is the desired method of retention.

B. Informing the Victim: The parent and child will be informed of the reasons for the digital recording and the attempt to maintain confidentiality of the DVD/USB, within the confines of the law.

C. Transfer of the DVD/USB to Evidence: It is law enforcement's responsibility to make DVD or USB copies from the hard drive at the time of the interview and book these into evidence. Once the interview is complete, the assigned officer will immediately take possession of the DVD/USB, ensure that it is properly recorded, and book it into evidence according to the chain of evidence policy in his or her agency.

D. Documentation: The DVD/USB will be entered into evidence either by the assigned officer or by the police department property clerk.

E. DVD/USB Storage: Once logged, the DVD/USB shall be stored in a secured location. **Due to the recidivist nature of sex offenders and in response to evolving legislation regarding criminal statutes of limitations and civil proceedings, the recorded interview should be maintained for a minimum of 40 years after the commission of the alleged offense.**

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F. Duplication for District Attorney's Office: Once criminal charges are sought, the investigating officer will make a copy of the DVD/USB, which will be delivered to the assigned Deputy District Attorney.

G. Release of recorded interview to the Defense and Parties to the Juvenile Court Dependency Proceeding: Digitally recorded interviews of victims shall be used only for preparation of the court case, with disclosure to other persons only when necessary.

H. Duplication for Children and Family Services (CFS): The investigating officer shall make a copy of the DVD/USB for CFS, or the San Mateo County Counsel, upon their request.

I. Duplication for Keller Center Forensic Interviewer Peer Review: If still on the hard drive, Keller Center Forensic Interviewers may make a copy of the interview for peer review purposes. If no longer on the hard drive, the investigating officer will make a copy of the DVD/USB for Keller Center Interviewer use during peer review, upon interviewer request.

J. Labeling the DVD/USB: The original DVD/USB and all copies except those used for peer review shall be labeled per individual law enforcement agency practices.

K. Destruction of the DVD/USB: **DVDs/USBs may be destroyed only after a minimum 30-year retention period**. For the purposes of this protocol, "destroyed" means that the DVD will be rendered unrecognizable. It is unacceptable to simply throw it away without further destruction.

L. Recordings of FIs Used for Training Purposes: Use of forensic interview recordings is beneficial in the training of law enforcement, CFS social workers, medical providers, and other members of the MDT. If a recording of an interview is desired for training purposes, the trainer will obtain consent from the legal guardian and from a child if over the age of 12. The recording will be anonymized using anonymizing software. Peer review, a CAC accreditation mandate of National Children's Alliance, is not construed as training for the purposes of this section. Therefore, consent and anonymization are not required for peer review.

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Appendix 5. Legal Rights of Sexual Assault Victims

A. Right to Support Person/Advocate

The survivor[1] has a right to have a support person of her or his choosing at interviews by police, the prosecutor or defense attorney, but the support person may be excluded from the exam or interview if the medical provider, law enforcement officer, or prosecutor believes that the support person's presence would be detrimental to the process. The term "support person" refers to a family member or friend of the survivor—**not the victim advocate**. (**Penal Code § 679.04)**

When the survivor reports a sexual assault to police, the agency must immediately notify the local rape crisis center and will transport the survivor to and from the hospital and inform them about of their right to have a sexual assault victim advocate accompany him or her for any services at the hospital and at subsequent law enforcement interviews. (Pen. Code §§ 264.2 and 679.04.) Before a medical examination begins the survivor must be notified of the right to have present a certified sexual assault counselor and one other support person chosen by the survivor. (**Penal Code § 264.2)**

A sexual assault survivor may have up to two support persons present in the courtroom during the preliminary hearing and trial. (**Penal Code § 868.5)**

A survivor who is a minor under age 11 or who has a disability has the right to special precautions to protect them from coercion, intimidation or undue influence as a witness by the court, including breaks in testimony and relocation of proceedings from the courtroom to another location, when needed. (**Penal Code § 868.8)** Testimony by a minor may be limited to school hours, in the court's discretion, if there is no good cause to require it during other hours. **(Pen. Code, § 868.6(e).)**

B. California Law Governing Consent in a Sexual Assault Case

Consent is defined, for purposes of a criminal prosecution in the California judicial system, as "positive cooperation in act or attitude pursuant to an exercise of free will; [t]he person must act freely and voluntarily and have knowledge of the nature of the act... involved." A current or previous dating or marital relationship is not sufficient to constitute consent. (**Penal Code § 261.6)**

Evidence that the survivor requested that defendant use condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent. (**Penal Code § 261.7)**

Evidence of the survivor's sexual conduct with anyone other than the defendant is not admissible by the defendant to prove consent.

[1]California law refers to the survivor as the "victim."

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The manner in which the survivor was dressed at the time of the assault is generally not admissible on the issue of consent. (**Evidence Code § 1103(c))**

C. Other Legal Rights of Survivors

1. Medical Examinations and Treatment

Victims have the right under state and federal law to receive a medical examination anonymously, at no cost to them, even if they are not choosing to make a report to law enforcement at the time of the exam. **(Penal Code § 13823.95; 79 C.F.R. at 62761)** Victims of attempted and completed sexual assaults have the right to an exam, but they can also refuse to consent to the forensic physical examination. Even if a survivor chooses not to consent to an examination for evidence of sexual assault, refusal is not a ground for denial of treatment of injuries and for possible pregnancy and transmitted diseases. (**Pen. Code § 13823.11)**

Survivors have the right to receive post-coital contraception (e.g., morning-after pill) upon request. **(Pen. Code, § 13823.11)**

No victim of sexual assault shall be required to participate or to agree to participate in the criminal justice system, either prior to the examination or at any other time. (**Pen. Code, § 13823.95)**

A minor may consent to hospital, medical, and surgical care related to a sexual assault without the consent of a parent or guardian. (**Pen. Code § 13823.11)**

A juvenile older than 12 years can consent to (or refuse) medical treatment for a sexually related health problem without parental notification. (**Fam. Code § 6927)**

A survivor is entitled to use paid sick days for medical care related to an incident of domestic violence, sexual assault or stalking, including mental health counseling. **(Lab. Code, § 246.5.)**

2. Confidentiality

Survivors who disclose that their medical exam is due to sexual assault or spousal rape cannot be guaranteed confidentiality because hospitals and health care providers are required to report to the local law enforcement agency all cases in which medical care is sought or suspected where injuries have been inflicted upon the victim. The report must be made by phone and in writing, and include the name of the injured person, her or his current whereabouts, and the character and extent of injuries. (**Penal Code sections 11160–11161.1)**

If a survivor chooses to go forward with judicial proceedings in a court law, he or she may ask to be identified in all records and in all proceedings as Jane or John Doe. The court must grant this request if it is reasonably necessary to protect the privacy of the

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person and it will not unduly prejudice the prosecution or the defense. (**Penal Code § 293.5)**

The defense is required to follow certain procedures when attempting to offer evidence of the sexual conduct of the survivor. (**Evidence Code § 782)**

Survivors of sex offenses or forced prostitution due to human trafficking have the right to request that their names remain confidential throughout the investigation and legal proceedings so as not to become a matter of public record. Law enforcement should assure the survivor that by exercising this right, law enforcement agencies will be prohibited from disclosing her or his name and address to any persons or public agencies except where authorized or required by law, such as to the prosecutor. (**Penal Code § 293)**

3. Other Rights of Survivors

A survivor who reports to police cannot be compelled to take a polygraph examination as a prerequisite to filing charges. **(Penal Code § 637.4)**

A survivor cannot be compelled to submit to a psychiatric or psychological examination for the purpose of assessing credibility. (**Pen. Code § 1112)**

Victims of rape and other sex crimes have the right to request HIV testing of perpetrator charged with these crimes and to receive test results. **(Health & Safety Code § 121055.)**

Survivors have the right to request a search warrant for HIV testing, which may be issued even if charges are not filed. **(Pen. Code, § 1524.1.)**

Victims of sexual assault are protected from specified civil and criminal actions resulting from alcohol or drug testing done in connection with a sexual assault. **(Penal Code § 13823.11.)**

The Sexual Assault Victims' DNA Bill of Rights creates a right for the survivor to be kept informed about DNA results obtained from rape kit evidence. The victim must request to be kept informed and if the evidence is not analyzed within the time frame set by law, must be informed of that fact within six months. (Penal Code § 680)

An employer shall not discharge, discriminate or retaliate against an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work to obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child. Reasonable notice to the employer is required for taking time off. **(Labor Code § 230, subd. (c).)**

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Larger employers (with more than 25 employees) must give job protected time off for victims to obtain services such as doctor visits, counseling, safety planning, or meeting with an advocate. **(Lab. Code § 231.)**

A sex offender who is required to register for his offense must be ordered, prior to release, not to contact or communicate with the survivor or the survivor's family if the survivor (or his or her parents, if the survivor is a minor) requests the no-contact order be made. (**Penal Code §§ 3053.6)**

Survivors of domestic violence, stalking, rape, and sexual battery may apply for new and different license plates. (**Veh. Code § 4467)**

A landlord cannot end or refuse to renew a tenancy based upon the fact that the tenant or member of the tenant's household is a victim of a documented act of domestic violence, sexual assault, or stalking. **(Code of Civ. Proc. § 1161.3)**

Victims of sexual assault are entitled to restitution for medical and psychological treatment. **(Pen. Code, § 203.1g: minors; Pen. Code § 1202.4f, all victims.)** Note that a victim seeking restitution for the cost of therapy does not waive his or her psychotherapist-patient privilege. (*People v. Garcia* (2010) 185 Cal.App.4th 1203.)

A victim's address or phone number cannot be disclosed to a defendant without a court hearing and showing of good cause. **(Pen. Code § 1054.2)**

4. Pen. Code **§** 264.2: "Victims of Domestic Violence" Card; Notification of Counseling Center

   (a) Whenever there is an alleged violation or violations of subdivision (e) of Section 243, or Section 261, 261.5, 262, 273.5, 286, 288a, or 289 the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in subparagraph (G) of paragraph (9) of subdivision (c) of Section 13701 of the Penal Code.

   (b) (1) The law enforcement officer, or his/her agency, shall immediately notify the local rape victim counseling center, whenever a victim of an alleged violation of Section 261, 261.5, 262, 286, 288a, or 289 is transported to a hospital for any medical evidentiary or physical examination. The victim shall have the right to have a sexual assault victim counselor, as defined in Section 1035.2 of the Evidence Code, and a support person of the victim's choosing present at any medical evidentiary or physical examination.
   (2) Prior to the commencement of any initial medical evidentiary or physical examination arising out of a sexual assault, a victim shall be notified orally or in writing by the medical provider that the victim has the right to have present a sexual assault victim counselor and at least one other support person of the victim's choosing.

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(3) The hospital may verify with the law enforcement officer, or his/her agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.
(4) A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.

5. Marsy's Law:

In November 2008, California voters approved Proposition 9, the Victims' Bill of Rights Act of 2008, Marsy's Law. This law provides all survivors with important rights and due process requirements, including the right, upon request, to reasonable notice of, and to reasonably confer with the prosecuting agency regarding, the arrest of the defendant (if known by the prosecutor), the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.

The survivor must be given notice and reasonable opportunity to be heard on any bail matter for a serious felony. The survivor also has due process rights to a speedy trial and prompt and final conclusion of the case and any related post-judgment proceedings.

Victims have the right under Marsy's Law:

1) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
2) To be reasonably protected from the defendant and persons acting on behalf of the defendant.
3) To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.
4) To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, and to set reasonable conditions. **(Section 28, Article I, Cal. Const.)**

6. Sexual Assault Survivor Rights Card **(Penal Code § 680.2)**.

Per P.C. § 680.2 "Upon the initial interaction with a sexual assault victim, a law enforcement officer or medical provider shall provide the victim with a card to be developed by every local law enforcement agency, in consultation with sexual assault experts, that explains all of the rights of sexual assault victims in clear language that is comprehensible to a person proficient in English at the fifth grade level, in at least 12-point font, and available in all major languages of the state."

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San Mateo County MDT created a template of this Sexual Assault Survivors Rights Card to meet the detailed legal specifications outlined in the law. A customizable version in Spanish and English is available. An example is below; soft copies are available on LawNet. (For card templates in other languages, law enforcement is directed to: https://oag.ca.gov/victimservices/ab1312.)

Your Rights as a Survivor of Sexual Assault

You have rights as a survivor of sexual assault. You have choices about whether to report a sexual assault to law enforcement. You may be eligible for a medical exam to collect evidence and/or for related medical care. You should be aware that DNA and other evidence may degrade within hours to days. You are not required to participate in the criminal justice system or receive a medical exam in order to keep your rights.

You Have The Right to have a confidential Sexual Assault Counselor or other person of your choosing present during any exam or investigative interview.

Rape Trauma Services (RTS) is San Mateo County's rape crisis center. RTS has confidential Sexual Assault Counselors and Advocates who are trained to provide support, local referrals, and to help you understand law enforcement and other government processes.
To contact a Sexual Assault Counselor call the RTS Crisis Line, 24 hours a day:

(650) 692-7273
www.rapetraumaservices.org

If You Choose To Have Evidence Collected, You Have The Right To Be Informed:

- whether or not the evidence is analyzed within 18 months of your assault.
- whether or not a DNA profile of your assailant was developed from the evidence.
- whether or not the DNA profile of your assailant has been entered into the law enforcement database.
- whether or not the DNA profile of your assailant matches a DNA profile contained in the law enforcement database.
- if the evidence related to your assault will be tested, it should be transported to the lab and analyzed within 24 MONTHS.
- that evidence related to your assault must be kept for 20 YEARS, or for victims under age 18 at the time of the offense, until your 40th birthday.

You Have The Right To Contact Your Law Enforcement Officer To:

- know of the status and results of all evidence related to your assault.
- get your case number and evidence tracking information.

You Have The Right To Get Information About:

- an **Emergency Protective Order** for immediate safety concerns.
  Ask a law enforcement officer.
- a **Civil Harassment Order** for ongoing safety concerns.
  http://www.courts.ca.gov/1260.htm
- possible **Financial Assistance** for costs arising from your assault.
  Contact:
  San Mateo County Victim Services:
  650-599-7479
  https://da.smcgov.org/victim-services

Agency/Report # _____

CONTACT INFORMATION

Law Enforcement ☐ _____

Medical Provider ☐ _____

You Have The Right to request in writing and receive a free copy of the initial crime report related to your assault.

If your assailant is convicted and required to register as a sex offender, you have the right to request their sex offender registry information from the prosecutor.

This card outlines some of the rights and resources that may be available to you under California law. A more complete description of your rights can be found in California Penal Code [S] 680.2. If you have questions, or for help in understanding your rights, contact your medical provider, law enforcement officer, or RTS Sexual Assault Counselor.

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Appendix 6: Case Review Procedures

A. Goals of Case Review

In addition to the pre- and post-interview briefings held immediately before and after a forensic interview by the case team, Case Review is the formalized process by which the San Mateo County MDT obtains a holistic view of the child/family and the child/family's needs during an open investigation of child sexual abuse. Conducting Case Review of active cases enables the MDT to:

- benefit from the varied experience and expertise of MDT members;
- increase understanding of the roles and responsibilities of partner agencies and disciplines;
- foster collaboration and communication and mutual support between members and increases understanding;
- learn from and improve practice based on lessons learned; and
- increase MDT members' understanding of the complexity of child abuse cases.

B. Case Review Mechanisms

Case Review is a three-tiered system.

Tier 1: Every case is "staffed" by the Case Team prior to and immediately after a forensic interview, with a team-based discussion of immediate next steps for the suspected victim and non-offending family members (such as investigative next steps, additional information to be gathered and shared among investigative agencies, exigent service needs, protection issues, medical and mental health concerns and referrals).

Tier 2: Cases will be regularly reviewed by a team of service providers, which may include RTS, VSD, BHRS, and/or Keller Center staff, to coordinate mental health referrals and other service needs.

Tier 3: Formalized Case Review provides an informed decision-making process for Case Team members as regards the specific case(s) discussed, as well as serving as an educational forum for the full MDT, as recurring themes and challenges in the investigation and intervention in child sexual abuse are routinely discussed.

C. Case Review Procedures

1. Frequency: Formalized Case Review occurs monthly, generally the 4th Wednesday of the month from 9:00 a.m. – 11:00 a.m.

2. Location: San Mateo County's case review occurs monthly at a geographically centralized facility. Each year, a county conference room in a central geographic area of the county is identified and reserved as the regular location for that calendar year's meetings.

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3. Designated attendees: Case Review is routinely attended by representatives from the District Attorney's Office, law enforcement, Children and Family Services, CAC personnel (Keller Center medical providers, forensic interviewers, Program Coordinator, MDT Project Manager), Rape Trauma Services, Behavioral Health and Recovery Services, and Victim Services Division. In addition to representatives from each discipline who comprise the Advisory Committee and who are regularly in attendance, the Case Team whose case is being discussed also attends. All MDT members are strongly encouraged to attend Case Review regularly and receive monthly notification for the meeting. Sign-in sheets are distributed at each meeting so that participation may be tracked. The sign-in sheets, which include a Confidentiality Statement, are maintained by the Keller Center Program Coordinator.

4. Facilitation: The Director of the Forensic Interview Program coordinates the MDT Meeting/Case review and is responsible for meeting facilitation, case selection and arranging for a "mini-training" for each Case Review. A "mini-training" is a 20- to 45-minute presentation on a topic related to one or more of the cases being reviewed or in response to an educational need identified through a previous case review or MDT partner request.

5. Notification: The Keller Center Program Coordinator sends out a meeting announcement and agenda. Additionally, the Program Coordinator circulates via secure email a list of the cases to be reviewed to the Case Team members and their supervisors so that they come prepared for the discussion and able to share relevant information. The monthly MDT/Case Review agenda typically includes:
    a. Introductions and agency announcements;
    b. Distribution of the sign-in sheet and review of the confidentiality agreement;
    c. Review of 2-4 cases;
    d. Mini-training; and
    e. Close of meeting/Next meeting date announcement.

6. Case selection criteria and process for adding cases: Any MDT member may request that a case be presented whenever they believe a formalized review will be beneficial for a case under active investigation or if an emerging circumstance arises at any stage of a dependency or criminal justice process, or as a result of emerging needs identified by MDT service providers. The Director of Forensic Interviewing also reviews all recent cases that have been served at the Keller Center and selects additional cases to reach a goal of discussing 2-4 active, recent cases in depth, per meeting. Cases are selected by the Director of Forensic Interviewing according to one or more of the following criteria:
    a. The Case Team, at the time of the Tier 1 post-forensic interview staffing determined that a broader MDT review of the case would be beneficial;
    b. The family's unique circumstances will benefit from a broader MDT discussion, especially as regards ongoing service needs;
    c. The dynamics of the case represent issues or topics that provide a learning about dynamics and complexities of sexual abuse and other forms of child

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maltreatment including developmental, cultural and trauma, or to inform or improve investigative strategies and responses for the future cases;
   d. The case illustrates benefits and positive outcomes when this protocol is followed; or
   e. The case illustrates challenges or problematic outcomes such as when the protocol was not followed, or for other reasons.

7. Areas of focus/discussion: During Case Review, the MDT shares information so that informed decisions can be made by each partner agency. The MDT discusses, reviews, monitors and/or provides input for decisions related to:
   a. case history and circumstances of report/allegation, and family responses to the disclosure/discovery of suspected abuse;
   b. outcomes of the forensic interview, including the results of the pre/post meetings with the family and their response to the disclosure and investigation;
   c. findings from the forensic medical exam, if conducted, and recommendations for any needed medical care or follow-up;
   d. the status of the law enforcement investigation;
   e. the status of the child protection investigation including safety and risk factors, and dependency court updates;
   f. prosecution determinations, criminal court updates and need for court-related advocacy services;
   g. the status of victim advocacy outreach to and needs of victims, siblings and non-offending caregivers;
   h. the status of mental health outreach to and needs for the child and non-offending family members;
   i. cultural, developmental and trauma-related factors;
   j. learnings from the case(s) being presented, ideas for improving future investigations and MDT responses and identifying ongoing training needs; and
   k. other topics, as appropriate, on a case-to-case basis.

8. Documentation and procedures for addressing follow-up recommendations: Personnel directly involved in the cases being reviewed are generally present at the Case Review meeting and can therefore follow-up on input and recommendations generated during the meeting. Therefore, monthly case review begins with a reminder about the confidentiality of the discussion and an admonishment that Case Team Members should take notes for their files regarding case-specific follow-up recommendations, and other MDT members present but not case-carrying should "take notes on themes, ideas and lessons learned, but no case-specific information" so as not to create a separate, discoverable case file. In the unusual circumstance where a case-carrying investigator of relevant discipline is not present for the discussion, following the meeting, the Director of the Forensic Interview Program or MDT designee is assigned to directly convey the relevant information for follow-up. When general practice or policy issues arise as part of a Case Review, follow-up for those

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non-case specific items is assigned to the Advisory Committee and placed on the Advisory Committee agenda for follow-up.

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Appendix 7. Case Tracking Procedures

Comprehensive case tracking is essential for information in order to track investigative and intervention outcomes as well as program evaluation and continuous quality improvement. Effective case tracking systems also enable MDT members to accurately inform children and families of the current status and disposition of their cases. Each partner agency adheres to all applicable privacy and confidentiality requirements and law. Each MDT partner agency signatory to this protocol agrees to participate in Case Tracking from intake to disposition. The Keller Center Program Coordinator collects and enters case information into an Access data base uniquely designed for our CAC's needs, allowing for distribution to MDT members as needed and collection of NCA statistical information.

A. Case information entered into the data base includes, but is not limited to:
    1. Victim demographics;
    2. Alleged offender demographics;
    3. Type of abuse;
    4. Relationship of alleged offender to victim;
    5. Name of team members involved;
    6. Services provided;
    7. Charges filed and case disposition;
    8. Child protection services outcomes; and
    9. Status of medical, advocacy and mental health referrals.

B. Twice a year the MDT will review the aggregate data. In addition, any MDT member/participating agencies can request both case-specific and aggregate data from the database by contacting the Keller Center Program Coordinator.

C. Each calendar year, every law enforcement jurisdiction in San Mateo County will provide to the Keller Center the number of child maltreatment cases reported to their respective agencies. This number should include all cases reported, regardless of whether the case was brought to the Keller Center for an interview or exam.

D. Our CAC uses NCA's Outcome Measurement System (OMS) to evaluate our program. Families may complete the survey electronically or by paper, either while at the CAC or after their visit. They are also contacted for a follow-up survey. We use OMS to seek feedback directly from clients so that we may make improvements in our service delivery. Clients are advised that their participation is optional, anonymous, and will not have any bearing on their case outcome.

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Appendix 8. Student Sexual Abuse Response Guidelines for San Mateo County Schools and Law Enforcement

In 2018, a multidisciplinary group including County Counsel for San Mateo Schools, created "Student Sexual Abuse Guidelines for San Mateo County Schools and law Enforcement" to detail best practices for coordination between law enforcement and a school when an allegation of sexual abuse or assault arises involving a school. Adherence to the Student Sexual Abuse Guidelines will allow schools to effectively fulfill their independent legal responsibilities to investigate and respond promptly to suspicions and allegations of sexual assault, including those set forth in Title IX of the Education Amendments of 1972 (Title IX), while minimizing negative impact to the victim and safeguarding the forensic reliability of criminal and child welfare investigations.

The Guidelines apply to all suspicions and allegations of student-student or school personnel-student sexual abuse and assault. The guidelines are intended to be a complement to this protocol. They are available on LawNet or from the Keller Center.

Town of Atherton Incident Response Plan.pdf

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Administrative Policy

Information Technology Incident Response Plan

Approved:

Effective Date

_____ Town Manager 04/01/2018

PURPOSE AND SCOPE

This security incident response plan and reporting template describes the actions that Town and Atherton Police Department Staff are to follow an incident that could represent, but is not limited to, unauthorized computer/application/data access and/or use of such systems in violation of Town of Atherton or Atherton Police Department policies. A security incident may originate from, be directed towards, or transit Town controlled computer or network resources. Examples of reportable security incidents include known or suspected breach of personal information; notification or alerts received from any IT monitoring tool, including but not limited to alerts from file integrity alarms; suspected virus or worm infections; local account compromise; application or computer performance degradation; reported spam origination from a computer, presence of unexpected programs or files; and/or unexpected application response.

The security incident response report template discussed in this document shall be used for initial reporting of a security incident.

POLICY

I. Definitions

A **security breach** is defined as unauthorized acquisition of data or access to systems that compromises the security, confidentiality, or integrity of personal information maintained by the Town of Atherton. Good faith acquisition of personal information by an employee or agent of our company for business purposes is not a breach, provided that the personal information is not used or subject to further unauthorized disclosure.

Personal information is information that is, or can be, about or related to an identifiable individual. It includes any information that can be linked to an individual or used to directly or indirectly identify an individual. Most information the organization collects about an individual is likely to be considered personal information if it can be attributed to an individual. For our purposes, personal information is defined as an individual's first name or first initial and last name, in combination with any of the following data:

- Social Security number/Social Insurance Number
- Driver's license number or Identification Card number
- Financial account number, credit or debit card number with personal identification number such as an access code, security codes or password that would permit access to an individual's financial account. (without name information)
- Home address or e-mail address
- Medical or health information.

II. What is a security incident?

A security incident may involve any or all the following:

- Town of Atherton computer security policies violation;
- unauthorized computer access;
- known or suspected loss of information confidentiality;
- loss of information availability;
- compromise of information integrity;
- a denial of service condition against data, network or computer;
- misuse of service, systems or information; or
- theft or loss of storage media or mobile device; or
- physical or logical damage to systems.

Security incident examples include but are not limited to the presence of a malicious application, such as a virus; establishment of an unauthorized account for a computer or application; unusual network connections to a computer; unusually slow computer performance; presence of unexpected/unusual programs; data breach; or computer theft.

III. Security incident classification

All computer security incidents will be subject to classification. Security incident classification assists in determining the severity and criticality of the security incident and ensures that the event receives resource level attention relative to the incident priority. The classification also ensures that the security incident is reported appropriately.

The security incident classification table, figure 1, provides several incident characteristics to assist in proper incident classification. Depending on the nature of the security incident, some of the incident criteria represented in the table may not be present in a security breach. Moreover, if an incident contains characteristics in several different priority columns, the priority of an incident must reflect the most severe column category. For example, if a security incident affects a service that may involve personal identity information (medium priority) with a likely broad public impact (high priority), the incident should be classified as a high priority breach.

IV. Security Incident Reporting

A. **All suspected or confirmed computer security incidents** will be subject to a reporting requirement. Staff that identifies a security incident must initially classify the incident priority based on the Security Incident Classification Table (figure 1). The initial priority level may be escalated or de-escalated as more information is known. This initial incident priority helps to determine support staff and management engagement in a reported security incident. All incident reports are to be made, reported to management within one business day after the incident was identified and with minimum delay for medium to high priority incidents.

B. **Law Enforcement Systems- Additional Reporting Requirement.** Additional reporting is required for all incidents affecting Law Enforcement Systems, Criminal Justice Information Systems (CJIS), and/or related Data. Atherton's assigned Law Enforcement Information Security Officer (ISO) must be notified as soon as a security incident impacting any Law Enforcement System has been identified. See **Appendices One and Two** for details.

C. **Incidents involving known or suspected breach of personal information** may be subject to additional reporting and notification requirements in accordance with California Civil Code Section 1798.29 (A.B. 1149), the Health Insurance Portability and Accountability Act (HIPAA), the Payment Card Industry Data Security Standard and other regulations. IT staff are required to notify IT Management as soon as possible upon discovery of unauthorized access to personal information on an individual that could result in harm or inconvenience to the individual such as fraud or identity theft. In addition to the internal notification and reporting procedures outlined below, State law requires notification of any security breach involving loss or compromise of personal information as described in **Appendix Three.** In addition, credit card companies require us to immediately report a security breach involving suspected or confirmed loss or theft of any material or records that contain cardholder data. Specific notification steps for breach of cardholder data are outlined in **Appendix Four.**

   IT management will promptly inform the Town Manager of any breach involving known or suspected unauthorized access to personal information.

D. **Actions & Technical Mitigation & Preservation of Evidence**
   IT Staff are responsible for taking appropriate actions to contain, control and correct systems affected by a security incident. The first IT Staff person to become aware of a potential incident shall begin corrective actions. In addition, IT Staff will notify IT Management as soon as reasonably practical; however corrective actions may begin if management has been contacted. All actions taken must be documented, and data preserved in accordance with the Town's records retention policies, and/or law enforcement directives, if applicable. Documentation should include:

   - Log files examined and saved
   - Forensic images or saved medias
   - Backup of affected systems (at a minimum retain last known good backup prior to the incident plus any incident-affected backups)
   - System rebuild and hardening steps taken
   - Photos
   - Notifications
   - Additional backup of the affected systems after recovery and remediation steps have been completed.

E. **Security Incident Report Instructions:**

1. Make a copy of the report template in Appendix One, Information Security Incident Response Report.
2. Complete form during incident.
3. Where applicable, complete additional incident documentation and/or notification steps described in Appendices Two through Four.
4. When completed, print and sign off all documentation; forward to IT Manager for review.
5. IT Manager reviews, sign and forwards to Town Manager with copy to Law Enforcement ISO when indicated.
6. Town Manager reviews, approves and returns completed documentation packet to IT Manager.
7. Final IT Action - documentation packet will be scanned and saved appropriately.

Figure 1
Security Incident Classification Table

Incident Factors	Security Incident Report Priority		
	Low	Medium	High
Criticality - Application(s) Affected	Internal Systems and Applications	Internal or External Systems and Applications	Internal or External Systems and Applications
Criticality - Infrastructure	No	Limited Scope	Town-wide
Impact to User and/or System(s)	Affects few people or few systems	Affects major systems	Town-wide
Impact - Public	None	Potential Impact	Definite Impact
Countermeasures	Solutions are readily available	Weak countermeasures	No countermeasures
Resolution and/or Procedures	Available and well defined	Resolution procedure not well defined, bypass Available (additional reporting and notification required)	No resolution procedures or bypass available (additional reporting and notification required)
Personally Identifiable Information	None	Possible	Definite
Criminal Justice Information System (CJIS)	None	Possible (additional reporting required)	Definite (additional reporting required)

Appendix One - Security Incident Report Form (Use for all incidents)

Reporting Information

Name:	Title:
Email:	Phone:
Date of Report:	Help Desk Ticket #:

Security Incident Classification: *see figure 1*

Low D	Medium D	High D

Incident Information

Description of Incident in Detail: *include location of affected hardware data and/or systems, what occurred and impact.*

Intrusion D	DOS O	Unauthorized Access of Breach of Data D.	Web Defacement D
Other D	Malware D	Policy Violation D	Theft or Damage D

How was incident detected? *explain - who, how*

System Logs D	Performance Issue D	Third Party D
User D	Monitoring Tool D	Other D

Suspected Method of Intrusion: *explain details*

Worm Virus (name) D	Backdoor D	Trojan Horse D
Password D	Unknown D	Other D

Suspected Perpetrator/Source: *e.g., disgruntled staff/contractor, former staff/contractor, IP address of source, etc - include possible motivation(s):*

internal D	External D	Other D

Additional Notification/Reporting Recommended: *e.g., legal, SB 1386, Jaw enforcement, human resources, insurance company/JPA (Via Risk Management)*

Date / Time Incident Started: *if known*

Date / Time Incident Reported:

Name and # of Person Reporting Incident to IT:

Duration of Incident: *days and hours*

Current Status of Incident: *e.g., ongoing attack, contained*

Impact of Incident: *include physical and data Joss, system downtime, user impact, etc.*

Other Information & Notes:

Incident Resolution and Closure

To be completed after incident resolution
Summary of Incident Results and Actions: *root cause analysis*
List of Evidence Collected:

Contact List of Everyone Involved in Resolving or Investigating Incident:
Lessons Learned & Changes for Future Prevention:
Cost of Incident in total dollars: *explain how cost was derived*
Personal Information and/or Data Affected: D Yes D No *If Yes, must complete below:* Town Manager notified: Date Town Manager was notified: Data Breach Notification Required? D Yes D No *If Yes, must complete Incident notification procedure and documentation in Appendix One*

Law Enforcement Systems and/or Data Affected: D Yes D No *If Yes, must complete below:*

Name of Law Enforcement ISO notified:

Date Law Enforcement ISO was notified:

Date Law Enforcement Reporting Form sent to ISO:
(ISO will submit form(s) to proper authorities)

Date Law Enforcement Reporting Form (Appendix Two) sent to Law Enforcement ISO:
(ISO will submit form(s) to proper authorities)

Closed by: *Signature, Name & Title*	
Approved by IT: *Signature, Name & Title*	
Approved by Town ISO: *Signature, Name & Title*	
Date Closed:	

Appendix Two - LAW ENFORCEMENT REPORTING FORM
(to be completed only on incidents affecting Law Enforcement Systems and/or Data – forward completed forms to Law Enforcement ISO: Atherton's assigned Law Enforcement Information Security Officer)

Use attached CLETS IT Security / Incident Response Form, or download latest version from DOJ website

Appendix Three - Notification and Security Requirements for Personal Information

1. Notification Requirements

A. When Notification Is Required

Notification may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. IT staff are encouraged to consult Atherton Police to determine if notifications should be delayed. If notification is delayed, IT staff will document the reason(s) in the Incident report.

The following incidents **may** require notification to individuals under contractual commitments or applicable laws and regulations:

- A user (employee, contractor, or third-party provider) has obtained unauthorized access to personal information maintained in either paper or electronic form.
- An intruder has broken into database(s) that contain personal information on an individual.
- Computer equipment such as a smart phone, workstation, laptop, tablet, CD-ROM, USB drive, or other electronic media containing personal information on an individual has been lost or stolen.
- A department or unit has not properly disposed of records containing personal information on an individual.
- A third-party service provider has experienced any of the incidents above, affecting the organization's data containing personal information.

The following incidents **may not** require individual notification under contractual commitments or applicable laws and regulations providing the Town can reasonably conclude after investigation that misuse of the information is unlikely to occur, and appropriate steps are taken to safeguard the interests of affected individuals:

- The Town can retrieve personal information on an individual that was stolen, and based on our investigation, reasonably concludes that retrieval took place before the information was copied, misused, or transferred to another person who could misuse it.
- The Town determines that personal information on an individual was improperly disposed of, but can establish that the information was not retrieved or used before it was properly destroyed.
- An intruder accessed files that contain only individuals' names and addresses.
- A tablet or laptop computer is lost or stolen, but the data is encrypted and may only be accessed with a secure token or similar access device, that has not been stolen or compromised.

2. Format and Information to be included in the Notification

A. Notice of a security breach shall be written in plain language, with minimal technical "jargon", and include, at minimum, the following information:

- The name and contact information of the reporting agency;

- The date of notification
- A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;
- If possible to determine at the time of notice, the date of breach, estimated date of breach, or date range within which the breach occurred;
- Whether notification was delayed due to law enforcement investigation;
- A general description of the breach incident;
- The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a social security number, driver's license of California identification card number.

B. At the Town's discretion, the breach notification may also include any or all the following:
- Information about actions the Town has taken to protect
- individuals whose information has been breached;
- Advice on steps the person whose information has been breached may take to protect him or herself.

C. If the Town is required to notify more than 500 California residents as the result of a single breach of security, the Town is also required to submit a single sample copy of the security breach notification, excluding any personally identifiable information, to the State Attorney General.

3. Personal Information Data Security Requirements

A. Documentation.

Data owners must identify and document all systems and processes that store or utilize personal information on individuals. Documentation must contain system name, device name, file name, location, database administrator and system administrator. The business area and the IT group must maintain the contact list of database and system administrators. Likewise, all authorized users who access or utilize personal information on individuals shall be identified and documented. Documentation must contain user name, department, device name (i.e., workstation or server), file name, location, and system administrator.

B. Data Owner Responsibilities

Data owners responsible for personal information play an active role in the discovery and reporting of any breach or suspected breach of information on an individual. All data owners must report any suspected or confirmed breach of personal information on individuals to the IT Division **immediately** upon discovery. This includes forwarding notification received from any third-party service providers or other business partners with whom the Town shares personal information on individuals. The IT Manager will notify the Town Manager and affected Department Head and system Subject Matter Expert(s) whenever a breach or suspected breach of personal information on individuals affects their business area.

The system Subject Matter Expert and IT staff will assist in acquiring information, preserving evidence, and providing additional resources as deemed necessary by the IT Division or Information Security Officer, or other officials throughout the investigation.

C. Management Responsibilities

The IT supervisor is responsible for ensuring that all IT employees are aware of policies and procedures for protecting personal information and attend IT Security Training courses at least annually.

If a breach or suspected breach of personal information occurs in their location, staff must notify the Information Technology Division immediately and open a Help Desk work order. IT will use the information in the Help Desk work order to begin documenting a Security Incident Report.

Note: Education and awareness communication will be directed to all employees informing them of the proper procedures for reporting a suspected breach of personal information on an individual. The Police Department has additional required training regarding Information Security practices and procedures.

Appendix Four - Related Legislation
Following are selected laws and regulations relating to the breach of personal information about an individual. This Appendix should not be considered a complete list.

California Civil Code 1798.29 (Senate Bill 1149)

California Civil Code 1798.29 requires agencies that own or license computerized data containing unencrypted personal information, to **notify California residents** of any security breach of their unencrypted personal information where the information was, or is reasonably believed to have been, acquired by an unauthorized person. The Legislative Counsel's digest is available at: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1149

Health Insurance Portability and Accountability Act of 1996 (HIPAA)

HIPAA addresses issues relating to electronic transmission of health-related data in Title II, Subtitle F of the Act entitled "Administrative Simplification". The administrative simplification provisions include four key areas:

- National standards for electronic transmission
- Unique health identifiers for providers, employers, health plans and individuals
- Security Standards
- Privacy Standards the HIPAA Security Standards require a covered entity to implement policies and procedures to ensure:
    - the confidentiality, integrity, and availability of all electronic protected health information
    - protect against any reasonably anticipated threats or hazards to the security of such information
    - protects against any reasonably anticipated uses or disclosures that are not permitted

Within this context, HIPAA requires a covered entity to implement policies and procedures to address security incidents. A security incident means the attempted or successful unauthorized access, use disclosure, modification, or destruction of information or interference with system operations in an information system. Response and reporting implementation requirements include identifying and responding to suspected or known security incidents; mitigate, to the extent practicable, harmful effects of security incidents that are known to the covered entity; and document security incidents and their outcomes.

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

Page _____ of _____

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

OBSERVATIONS

VICTIM	SUSPECT
☐ Tattoos	☐ Tattoos
☐ Shaking	☐ Shaking
☐ Unresponsive	☐ Unresponsive
☐ Crying	☐ Crying
☐ Scared	☐ Scared
☐ Angry	☐ Angry
☐ Fearful	☐ Fearful
☐ Calm	☐ Calm
☐ Agitated	☐ Agitated
☐ Nervous	☐ Nervous
☐ Threatening	☐ Threatening
☐ Apologetic	☐ Apologetic
☐ Other observations: _____	☐ Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you?	☐ Yes	☐ No
Has suspect ever harmed you?	☐ Yes	☐ No
Does suspect possess or have access to a firearm?	☐ Yes	☐ No
Are you afraid for your safety?	☐ Yes	☐ No
Do you have any other information that may be helpful?	☐ Yes	☐ No

Resources offered at scene: ☐ Yes ☐ No Type: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

Paramedics at scene? ☐ Yes ☐ No Unit # _____

Name(s)/ID #: _____

Hospital: _____

Jail Dispensary: _____

Physician/Doctor: _____

Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Line-up Protocol Pages 4-5.pdf

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Old Style "Six Pack" Photo Line-Up: All Photos Shown Simultaneously



Under old standard, officer who is investigating the crime would compile a set of six photos, all on one sheet of paper, and show them all at once to the witness. The witness would pick from among the six options, if they felt any were the suspect in question.
Studies have shown that this makes some identifications less reliable, as the viewer/witness might tend to identify one of the pictures as being that of the suspect based on who looks most like the suspect, comparing the six photos. That is, they pick someone from the line-up, but sometimes they are simply picking the one out of six who most looks like who they remember, as opposed to the person who actually committed the crime.

Under the sequential double-blind system:
1. the I.O. is not the one presenting the line-up, and the presenting officer should not, ideally, know who the "true" suspect is in the line-up.

2. the viewer/witness should be shown the six individual photos sequentially, not all at once, and

3. the six individual photos should be randomized, if the same line-up is being shown to multiple witnesses, too.



Photo #1 shown to witness, then **Sequential Double-Blind**



Photo #2 shown to witness, then



Photo #3 shown to witness, then



Photo #4 shown to witness, then



Photo #5 shown to witness, then



Photo #6 shown to witness, then witness is asked if any are the suspect.

Atherton PD Photo line up form.pdf

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ATHERTON POLICE DEPARTMENT

Case #: _____ Date: _____ Time: _____AM/PM Location : _____

Persons present during the identification process :

_____

_____.

I, _____ will advise you of the procedures for viewing the
(Officer's Name – Printed)
following photographic or live line-up. The fact that these photographs/individuals are being shown to you should not cause you to believe or guess that the guilty person(s) has been identified or arrested. The person who committed the crime may or may not be in this line-up. Regardless of whether you make an identification, the police will continue to investigate this incident. It is just as important to clear innocent persons from suspicion, as it is to identify the guilty parties.

Please keep in mind that the individuals depicted in the line-up may not appear exactly as they did at the time of the incident because features, such as head/facial hair, and clothing are subject to change. You will be shown a number or photographs/images viewing one at a time before moving to the next. All of the photographs/images will be shown even if identification is made. Whenever you recognize anyone, please tell the Officer which photograph/image you recognize and how you recognize the individual. Please indicate in your own words how certain you are of the identification.

Do not indicate in any way to other witnesses, or other persons, that you have or have not made an identification.

I, _____understand the above information, and after viewing
(Witness's Name – Printed)

photographs, have identified the _____(#1, #2, etc. preserving the order in which the photos were shown) photograph as that of _____

_____.

Signed: _____before me on this _____day of _____20_____.
(Witness's Signature)

Officer's Signature: _____ Badge #: _____

ATHERTON POLICE DEPARTMENT

Case #: _____Date: _____Time: _____AM/PM

I, _____ have selected the following
(Officer's Name – Printed)
photographs/images to be viewed by the witness noted above. Each photo/image has been numbered on the back and shown one at a time in a random order as listed below.

Photo Number In Order Shown	Name of Individual/Photo	Comment
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Your Rights Card.pdf

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Your Rights as a Survivor of Sexual Assault

You have rights as a survivor of sexual assault. You have choices about whether to report a sexual assault to law enforcement. You may be eligible for a medical exam to collect evidence and/or for related medical care. You should be aware that DNA and other evidence may degrade within hours to days. You are not required to participate in the criminal justice system or receive a medical exam in order to keep your rights.

You Have The Right to have a confidential Sexual Assault Counselor or other person of your choosing present during any exam or investigative interview.

Rape Trauma Services (RTS) is San Mateo County's rape crisis center. RTS has confidential Sexual Assault Counselors and Advocates who are trained to provide support, local referrals, and to help you understand law enforcement and other government processes.
To contact a Sexual Assault Counselor call the RTS Crisis Line, 24 hours a day:

(650) 692-7273
www.rapetraumaservices.org

You Have The Right To Get Information About:

- an **Emergency Protective Order** for immediate safety concerns.
  Ask a law enforcement officer.

- a **Civil Harassment Order** for ongoing safety concerns.
  http://www.courts.ca.gov/1260.htm

- possible **Financial Assistance** for costs arising from your assault.
  Contact:
  San Mateo County Victim Services:
  650-599-7479
  https://da.smcgov.org/victim-services

If You Choose To Have Evidence Collected, You Have The Right To Be Informed:

- whether or not the evidence is analyzed within 18 months of your assault.
- whether or not a DNA profile of your assailant was developed from the evidence.
- whether or not the DNA profile of your assailant has been entered into the law enforcement database.
- whether or not the DNA profile of your assailant matches a DNA profile contained in the law enforcement database.
- if the evidence related to your assault will be tested, it should be transported to the lab and analyzed within 24 MONTHS.
- that evidence related to your assault must be kept for 20 YEARS, or for victims under age 18 at the time of the offense, until your 40th birthday.

You Have The Right To Contact Your Law Enforcement Officer To:

- know of the status and results of all evidence related to your assault.
- get your case number and evidence tracking information.

Agency/Report # _____

CONTACT INFORMATION

Law Enforcement

Medical Provider

You Have The Right to request in writing and receive a free copy of the initial crime report related to your assault.

If your assailant is convicted and required to register as a sex offender, you have the right to request their sex offender registry information from the prosecutor.

This card outlines some of the rights and resources that may be available to you under California law. A more complete description of your rights can be found in California Penal Code [S] 680.2. If you have questions, or for help in understanding your rights, contact your medical provider, law enforcement officer, or RTS Sexual Assault Counselor.

cora2.jpg

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Non_Secure_Juvenile_Detention_Log_BSCC_Rev_Jan-14.pdf

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NON SECURE DETENTION OF JUVENILES LOG

Conditions for Non Secure Detention (WIC §207.1(d)2): Agency: _____ Month/Year: _____

1. Juveniles described by WIC §602 who are under 14 years of age must be kept in non secure detention.
2. Juveniles who do not present a serious risk of harm to self or others must be held in non secure detention.
3. Juveniles may be held for no more than 6 hours to investigate the case, facilitate release to parent or guardian, or arrange for the transfer to an appropriate facility.
4. Non securely detained juveniles shall not be detained in a jail, lockup, or held in a locked room or area (holding tank or other locked enclosures).
5. Non secure detention allows the handcuffing of a juvenile, but not to a cuffing rail or other stationary object.
6. Juveniles must be kept sight and sound separate from adult prisoners (WIC §208).

**** Release Codes and definitions are listed on back of log. ****

A. Complete this section for each juvenile placed in non secure detention.

B. Complete this section when juvenile is released or transferred.

Juvenile / Officer / Approved By / Location	Sex	Age	Reason Detained Charge(s)	Entered Facility Date	Entered Facility Time	Released from Facility Date	Released from Facility Time	Total Time in Facility Hrs/Mins	Type of Release Code*	Release Information
Juvenile's Name:										Released To:
Arresting Officer:										Released By:
Detention Approved By:										
Location of Detention:										
Juvenile's Name:										Released To:
Arresting Officer:										Released By:
Detention Approved By:										
Location of Detention:										
Juvenile's Name:										Released To:
Arresting Officer:										Released By:
Detention Approved By:										
Location of Detention:										
Juvenile's Name:										Released To:
Arresting Officer:										Released By:
Detention Approved By:										
Location of Detention:										

Supervisor Approving: _____ Date Approved: _____

This document is an EXAMPLE of a non secure detention of juveniles log; although this information must be documented, there is no prescribed format.

Non Secure Detention of Juveniles Log

Instructions: Section 1150, Title 15, California Code of Regulations requires that entry and release times of juveniles held in non secure detention must be documented. At the end of each month, the number of juveniles held in non secure detention and the duration of each detention must be tallied and submitted to the Board of State and Community Corrections via the *Monthly Report on the Detention of Minors* form. Ensure that each juvenile is counted only once. Detention begins when the juvenile enters the law enforcement facility and ends when the juvenile leaves the facility.

Section A.

Detentions:

Information shall be entered for each juvenile placed in non-secure detention, regardless of the length of time. "Reason Detained" shall be the appropriate charge(s) (e.g., 211 PC, 459 PC, 11350 H&S).

Section B.

Type of Release Codes:

Code #	Description
1.	Juvenile released to parents.
2.	Transfer to detention facility.
3.	Other type of release.

cora1.jpg

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Line-up Protocol Pages 1-3.pdf

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LINE-UP PROTOCOL

I. PURPOSE OF PROTOCOL

Valid eyewitness identifications are crucial to solving crimes and convicting criminals. It is in the interest of law enforcement and prosecutors that photographic and physical line-ups be conducted in a manner that ensures reliability of the eyewitness identification process. San Mateo County Law Enforcement Officers will strive to use eyewitness identification techniques to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

II. INTERPRETIVE SERVICES

A. 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.

B. 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 comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this protocol.

C. When possible, officers should avoid utilizing victims' family members/friends as interpreters. Officers should always avoid using suspects' family members/friends as interpreters.

III. EYEWITNESS IDENTIFICATION FORMS

A. Each department will be responsible for developing and maintaining eyewitness identification forms.

B. The identification process and forms should include the following:

1. The date, time and location of the eyewitness identification procedure;
2. The name and identifying information of the witness;
3. The name of the person administering the identification procedure;
4. The names of all persons present during the identification process;
5. An admonishment that the suspect may or may not be among those presented and that the witness is not obligated to make an identification;
6. An admonishment to the witness that the investigation will continue regardless of whether an identification is made by the witness;
7. A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

IV. EYEWITNESS IDENTIFICATION

A. Officers 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.

B. Officers should avoid mentioning that:

1. The individual was apprehended near the crime scene.
2. The evidence points to the individual as the suspect.
3. Other witnesses have identified, or failed to identify, the individual as the suspect.

C. 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.

D. Witnesses should never be told whether they picked the "correct" person in the lineup.

V. PHOTOGRAPHIC LINEUP AND LIVE LINE-UP CONSIDERATIONS

A. When practicable, the person composing the lineup and the person presenting the lineup should not be directly involved in the investigation of the case. When this is not possible, the member presenting the lineup must take the utmost care not to communicate the identity of the suspect in any way.

B. When practicable, the employee presenting a lineup to a witness should not know which photograph or person is the suspect.

C. Other persons or photos used in any lineup should bear similar characteristics to the suspect to avoid causing him/her to unreasonably stand out.

D. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

E. The officer conducting the lineup to a witness should do so sequentially and not simultaneously (i.e. show the witness one person at a time). The witness should view all persons in the lineup.

F. The order of the suspect or the photos and fillers should be randomized before being presented to each witness.

VI. DOCUMENTATION

A. 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.

B. 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.

Copy of Vehicle Inventory checklist- 2019.pdf

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	Sgt "3" Car	Sgt SUV	"4" Car	"5" Car	"6" Car	"7" Car	"8" Car	K-9 car I	K-9 car II
ABAG Accident Kit	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes
APD Cell phone	Convoy 2 650-743-3112 (FE6A409)	Convoy 2 650-743-3115 (FE6A3C5)	Convoy 2 650-743-3107 (FE6A43F)		Convoy 2 650-868-4845 (FE6A444)	Convoy 2 650-743-3118 (FE6A3E3)	2 (A00000399E2FFF	Convoy 2 650-743-3116 (FE6A44B)	Convoy 2 650-743-3114 (FE68272)
AR-15	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Bio-Hazard kit	No	No	No	No	No	No	No	Yes	No
Bolt Cutters	Yes	No	No	Yes	No	No	Yes	No	Yes
Defibrillator	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Dog leash	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Finger print kit	No	No	No	No	No	Yes	Yes (old)	Yes	No
Fire Extinguisher	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Flares	Yes	Yes (Power)	Yes	Yes	No	Yes	Yes	Yes	Yes
Gate Opener	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
In Car Microphone	Old	New	Old	Old	Yes (in car)	Yes (in car)	Yes (in car)	Yes (in car)	Old
Jumper/Booster cables	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Medical bag	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Moving radar	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Police/Caution tape	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Radar remote	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Radar tuning forks	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Rolatape	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Stop Sticks	No	No	Yes	Yes	Yes	Yes	Yes	No	Yes
Traffic safety cones	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Traffic safety paint	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Traffic vest	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes
Misc. items	Saw, push broom, and dog wand, small first aid kit	Small first aid kit, chair	Saw, very old first-aid kit, ETS		Push broom, rope, and polaroid camera	Turbo Flares (not functioning, pry axe, push broomj	small first-aid kit	Saw and misc K9 equipment	Saw, pry axe, riot shield

Issued to ofc by APD

Extras in garage

Missing Camera Power shot A560, 5120254680 (originally in K9)

**Last revised 03/04/13 by Sgt. K. Lopez

Hate Crime Checklist.pdf

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Hate Crime Checklist.pdf

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HATE CRIME CHECKLIST

VICTIM

Victim Type:

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
(e.g., non-profit, private, public school)
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

Target of Crime (Check all that apply):

☐ Person ☐ Private property ☐ Public property

☐ Other _____

Nature of Crime (Check all that apply):

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

BIAS

Type of Bias
(Check all characteristics that apply):

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
(e.g., 9/11, holy days)
☐ Other: _____

Specify disability (be specific):

_____

_____

Actual or Perceived Bias – Victim's Statement:

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

If perceived, explain the circumstances in narrative portion of Report.

Reason for Bias:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Bias Indicators (Check all that apply):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

Describe with exact detail in narrative portion of Report.

HISTORY

Relationship Between Suspect & Victim:

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
If Yes, describe in narrative portion of Report

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
If Yes, describe in narrative portion of Report
Type of order: _____ Order/Case# _____

WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

HATE CRIME CHECKLIST

Page _____ of _____

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

OBSERVATIONS

VICTIM	SUSPECT
☐ Tattoos	☐ Tattoos
☐ Shaking	☐ Shaking
☐ Unresponsive	☐ Unresponsive
☐ Crying	☐ Crying
☐ Scared	☐ Scared
☐ Angry	☐ Angry
☐ Fearful	☐ Fearful
☐ Calm	☐ Calm
☐ Agitated	☐ Agitated
☐ Nervous	☐ Nervous
☐ Threatening	☐ Threatening
☐ Apologetic	☐ Apologetic
☐ Other observations: _____	☐ Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you?	☐ Yes	☐ No
Has suspect ever harmed you?	☐ Yes	☐ No
Does suspect possess or have access to a firearm?	☐ Yes	☐ No
Are you afraid for your safety?	☐ Yes	☐ No
Do you have any other information that may be helpful?	☐ Yes	☐ No

Resources offered at scene: ☐ Yes ☐ No Type: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

Paramedics at scene? ☐ Yes ☐ No Unit # _____

Name(s)/ID #: _____

Hospital: _____

Jail Dispensary: _____

Physician/Doctor: _____

Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

HATE CRIME CHECKLIST

VICTIM

Victim Type:

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
(e.g., non-profit, private, public school)
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

Target of Crime (Check all that apply):

☐ Person ☐ Private property ☐ Public property

☐ Other _____

Nature of Crime (Check all that apply):

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

BIAS

Type of Bias
(Check all characteristics that apply):

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
(e.g., 9/11, holy days)
☐ Other: _____

Specify disability (be specific):

_____

_____

Actual or Perceived Bias – Victim's Statement:

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

If perceived, explain the circumstances in narrative portion of Report.

Reason for Bias:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Bias Indicators (Check all that apply):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

Describe with exact detail in narrative portion of Report.

HISTORY

Relationship Between Suspect & Victim:

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
If Yes, describe in narrative portion of Report

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
If Yes, describe in narrative portion of Report
Type of order: _____ Order/Case# _____

WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

HATE CRIME CHECKLIST

Page _____ of _____

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

OBSERVATIONS

VICTIM	SUSPECT
☐ Tattoos	☐ Tattoos
☐ Shaking	☐ Shaking
☐ Unresponsive	☐ Unresponsive
☐ Crying	☐ Crying
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☐ 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

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.

Animal Poisons 1.jpg

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Visitor Badge.jpg

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Line-up Protocol-Final.pdf

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LINE-UP PROTOCOL

I. PURPOSE OF PROTOCOL

Valid eyewitness identifications are crucial to solving crimes and convicting criminals. It is in the interest of law enforcement and prosecutors that photographic and physical line-ups be conducted in a manner that ensures reliability of the eyewitness identification process. San Mateo County Law Enforcement Officers will strive to use eyewitness identification techniques to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

II. INTERPRETIVE SERVICES

A. 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.

B. 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 comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this protocol.

C. When possible, officers should avoid utilizing victims' family members/friends as interpreters. Officers should always avoid using suspects' family members/friends as interpreters.

III. EYEWITNESS IDENTIFICATION FORMS

A. Each department will be responsible for developing and maintaining eyewitness identification forms.

B. The identification process and forms should include the following:

1. The date, time and location of the eyewitness identification procedure;
2. The name and identifying information of the witness;
3. The name of the person administering the identification procedure;
4. The names of all persons present during the identification process;
5. An admonishment that the suspect may or may not be among those presented and that the witness is not obligated to make an identification;
6. An admonishment to the witness that the investigation will continue regardless of whether an identification is made by the witness;
7. A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

IV. EYEWITNESS IDENTIFICATION

A. Officers 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.

B. Officers should avoid mentioning that:

1. The individual was apprehended near the crime scene.
2. The evidence points to the individual as the suspect.
3. Other witnesses have identified, or failed to identify, the individual as the suspect.

C. 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.

D. Witnesses should never be told whether they picked the "correct" person in the lineup.

V. PHOTOGRAPHIC LINEUP AND LIVE LINE-UP CONSIDERATIONS

A. When practicable, the person composing the lineup and the person presenting the lineup should not be directly involved in the investigation of the case. When this is not possible, the member presenting the lineup must take the utmost care not to communicate the identity of the suspect in any way.

B. When practicable, the employee presenting a lineup to a witness should not know which photograph or person is the suspect.

C. Other persons or photos used in any lineup should bear similar characteristics to the suspect to avoid causing him/her to unreasonably stand out.

D. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

E. The officer conducting the lineup to a witness should do so sequentially and not simultaneously (i.e. show the witness one person at a time). The witness should view all persons in the lineup.

F. The order of the suspect or the photos and fillers should be randomized before being presented to each witness.

VI. DOCUMENTATION

A. 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.

B. 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.

Walsh Road Activation Chart 001.jpg

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Vehicle Take Home Policy Agreement.pdf

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ATHERTON POLICE DEPARTMENT

POLICY MANUAL

VEHICLE TAKE HOME AGREEMENT (MOTOR OR K9)

I, _____ request permission to drive my assigned Atherton Police Department motorcycle / K9 car (circle one) to and from my residence and work assignments as outlined in the Atherton Police Department's Vehicle Take Home Policy. My signature affirms that I will follow the guidelines outlined within the Atherton Police Department's Vehicle Take Home Policy.

I will be driving my assigned vehicle to:

Street Address: _____

City: _____

One-way distance in miles: _____

Officer Signature: _____ Date: _____

Supervisor's Signature: _____Date: _____

Commander Approval: _____Date:_____

Chief Approval: _____Date:_____

Animal Poisons 1.jpg

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SurvivorRightsCard_BW2.pdf

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YOUR RIGHTS

Your Rights as a Survivor of Sexual Assault

CALCASA
CALIFORNIA COALITION AGAINST SEXUAL ASSAULT

You are never required to participate in the criminal justice system or receive a physical exam in order to keep your rights. You get to choose whether you get an exam, whether and how you report the assault, and how much you participate in the process.

YOU HAVE THE RIGHT TO CONTACT YOUR LOCAL RAPE CRISIS CENTER, AT:

RAPE TRAUMA SERVICES
1860 El Camino Real #406
Burlingame, CA
(650)-652-0598

For more information and support. Rape crisis centers have confidential advocates that keep conversations private.

Law Enforcement [X]
Medical Provider [X]
can be contacted at:

RAPE TRAUMA SERVICES
1860 El Camino Real #406
Burlingame, CA

YOU HAVE THE RIGHT TO:

- **Seek a Civil Protection Order**
  More information on the process here:
  http://www.courts.ca.gov/1260.htm
- **Seek an Emergency ProtectiveOrder**
  To help keep you safe.
  (ask a law enforcement officer)
- **Seek Financial Assistance**
  For covering the costs arising from your assault (through Victim Compensation in California), and the process for applying can be found here:
  http://victims.ca.gov/victims/howtoapply.aspx
- **Have a 24-Hour Confidential Sexual Assault Counselor** (victim advocate) **Or at Least One Other Person of Your Choosing**
  Present during any exam or investigative interview

This card is an outline of your rights and resources and may not include all the rights/options that may be available to you. Under California law (Cal. Penal Code § 680.2) any law enforcement officer or medical provider must provide you with a card that clearly spells out your rights. If you have further questions, please contact your rape crisis center, medical provider, and/or law enforcement officer.

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YOU HAVE THE RIGHT TO:

- **Ask for the Status and Results** of the analysis of all evidence related to your assault.
- **Ask the law enforcement officer for a tracking number** and steps to get follow up information.
- **Know that DNA and other types of evidence can degrade/break down overtime due to exposure to heat, water, and other materials.** In general, DNA evidence on the body last from 12 hours to 7 days.

YOU HAVE THE RIGHT TO BE INFORMED OF THE FOLLOWING:

- Whether or not the evidence is analyzed within 18 months of your assault.
- Whether or not a DNA profile of your assailant was developed from the evidence.
- Whether or not the DNA profile of your assailant has been entered into the law enforcement database.
- Whether or not the DNA profile of your assailant matches a DNA profile contained in the law enforcement database.

If the evidence related to your assault will be tested, it should be transported to the lab and analyzed within **24 MONTHS**

The evidence related to your assault must be kept for **20 YEARS**, or for victims under age 18 at the time of the offense, until your 40th birthday

You have the right to request in writing and receive a **FREE COPY OF THE INITIAL CRIME REPORT** related to your assault.

If your assailant is convicted and required to register as a sex offender, you have the right to **REQUEST THEIR SEX OFFENDER REGISTRY INFORMATION** from the prosecutor.

Any questions related to your rights as a survivor of sexual assault can be answered by your rape crisis center confidential advocate.

Advocates are trained in support services, local referrals, and law enforcement and other government processes.

CALCASA
CALIFORNIA COALITION AGAINST SEXUAL ASSAULT

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CALCASA
CALIFORNIA COALITION AGAINST SEXUAL ASSAULT

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Citizen Complaint Form - January 2022.pdf

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Case Number: _____

Atherton Police Department Citizen Complaint Form

Procedure

You have the right to file a complaint regarding any conduct by a member of the Atherton Police Department. You are entitled to a copy of your statement at the time you file the complaint. The Police Department will conduct an investigation into the complaint. After the investigation is completed, the Department may take some form of personnel action against the accused officer if it is determined that misconduct occurred, or it may find that there is insufficient evidence to warrant personnel action against the officer. A written notice of the disposition of the complaint will be provided to you within 30 days of the Department's finding. Citizen complaints will be retained for at least five years.

Your Information **Today's Date: _____**

_____ _____ _____
Last Name First Name MI

_____ _____ ____ _____
Address City State Zip

_____ _____ ____ _____
Mailing Address (if different from above) City State Zip

_____ _____ _____
Home Phone Work Phone Mobile Phone

_____ _____
Date of Birth Driver's License #

I **do agree / do not agree** (circle one) to my statement being ***audio recorded***._____.
Signature

Information about the Incident

_____ _____ _____
Date Time Location of incident

Officer(s) Involved & Badge Number or Description:

1. _____

2. _____

Police Report Number: (if known)

_____

If the officer's name is unknown, please provide a badge number or physical description: _____

_____

Witness Name (s) Address, Phone Number:

1. _____

2. _____

Investigating Officer:	**Interview Date:**	**Interview Time:**

80 Fair Oaks Lane – Atherton, CA, 94027 – Telephone 650-688-6500 - Fax 650-752-0591

Case Number: _____

Summary of the Complaint(s)

Received by: _____ Date:_____

Investigating Officer:	Interview Date:	Interview Time:

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