CHIEF’S PREFACE
The California Polytechnic University Police Department (UPD) is dedicated to serving the campus and its surrounding community with integrity, professionalism and pride. To ensure our desired outcome, we have adopted a new system for storing, managing, and updating the organization’s Policies and Procedures Manual, Lexipol. Our new manual builds upon our existing policies and procedures, and serves as a living document, changing and adopting in response to legislative mandates, case law and best practices. Although no document can establish rules and regulation to encompass every situation, this document is intended to be an instrument that provides guidance and guidelines to assist in serving the University.

DARIO ROBINSON,
Chief of Police
DEPARTMENTAL MISSION, VALUES, VISION

Mission and Values

Our mission is to provide a safe and secure environment for the University Community. We provide these services fairly, with integrity, respect and in a manner that meets or exceeds the standards of our profession.

Actions

We do so by providing:

- Continuously available 911 call reception, alarm monitoring and communications services;
- Field patrol and problem solving response;
- Investigative and preventive activities;
- Emergency management planning and coordination;
- Crime prevention, community services and campus outreach;
- Partnership activities in furtherance of the goals of the campus community and the communities that surround us.

Vision

The Cal Poly Pomona Police Department will continue to improve its procedures, policies and practices. The department will hire and retain exemplary personnel with a focus on the public safety needs of the campus community. Its equipment, facilities and training programs will mirror the excellence of our employees. On a daily basis the department will earn the trust and support of the community it serves through the passion, dedication and effective actions of its employees.
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Chapter 1 - Law Enforcement Role and Authority
Law Enforcement Authority

100.1 PURPOSE AND SCOPE
The purpose of this policy is to affirm the authority of the members of the CSU Police Department to perform their functions based on established legal authority.

100.2 POLICY
It is the policy of the CSU 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.

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

100.3.1 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE CAL POLY POMONA POLICE DEPARTMENT
The arrest authority within the jurisdiction of the CSU Police Department includes (Penal Code § 830.1; Penal Code § 836):

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

100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE CAL POLY POMONA POLICE DEPARTMENT
The arrest authority outside the jurisdiction of the CSU Police Department includes (Penal Code § 830.1; Penal Code § 836):

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

(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 State, or while assisting another agency.

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

100.3.3 DELIVERY TO NEAREST MAGISTRATE
When an officer makes an arrest pursuant to a warrant with bail set, and the warrant was issued in a county other than where the person was arrested, the officer shall inform the person in writing of the right to be taken before a magistrate in the county where the arrest occurred (Penal Code § 821; Penal Code § 822).

100.3.4 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:
   (a) A misdemeanor committed in the presence of the officer.
   (b) Misdemeanor domestic violence offenses (See the Domestic Violence Policy).

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

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

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

100.3.5 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.

CSU 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.

100.4 INTERSTATE PEACE OFFICER POWERS
Peace officer powers may be extended to other states:

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

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

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

100.5 CONSTITUTIONAL REQUIREMENTS
All members shall observe and comply with every person’s clearly established rights under the United States and California Constitutions.
Chief Executive Officer

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

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

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

101.2 POLICY
It is the policy of the CSU 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.

101.3 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.”

101.4 MAINTENANCE OF RECORDS
The oath of office shall be filed as prescribed by law (Government Code § 3105).
Policy Manual

102.1 PURPOSE AND SCOPE
The manual of the CSU 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.

102.2 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.

102.2.1 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 Cal Poly Pomona Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the State, 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 Cal Poly Pomona Police Department reserves the right to revise any policy content, in whole or in part.

102.3 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.

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

Adult - Any person 18 years of age or older.

CCR - California Code of Regulations (Example: 15 CCR 1151).
CHP - The California Highway Patrol.


State - The State of Cal Poly Pomona.

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

UPD - The Cal Poly Pomona Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile - Any person under the age of 18 years.


May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Cal Poly Pomona Police Department, including:

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

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

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

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

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

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

Shall or will - Indicates a mandatory action.

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

Supervisor - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.
The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

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

**USC - United States Code.**

### 102.5 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.

### 102.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

### 102.7 REVISIONS TO POLICIES

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

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

Each Division Lieutenant will ensure that members under his/her command are aware of any Policy Manual revision.
Law Enforcement Code of Ethics

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

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

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

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

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

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

104.3.1 OBJECTION TO RELIGIOUS AFFIRMATION
Reference to religious affirmation in the Law Enforcement Code of Ethics may be omitted where objected to by the officer.
Chapter 2 - Organization and Administration
Departmental Directives

201.1 PURPOSE AND SCOPE
Departmental Directives establish an interdepartmental communication that may be used by the Chief of Police to make changes to policy and procedure consistent with the current Memorandum of Understanding and as permitted by Government Code § 3500 et seq.

201.1.1 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, 12-01 signifies the first Departmental Directive for the year 2012.

201.2 RESPONSIBILITIES

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

201.2.2 CHIEF OF POLICE
The Chief of Police shall issue all Departmental Directives.

201.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES
All employees are required to read and obtain any necessary clarification of all Departmental Directives. All employees are required to acknowledge 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 and Operations Specialist.
Emergency Management Plan

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

202.2 ACTIVATING THE EMERGENCY PLAN
The Emergency Management Plan can be activated on the order of the official designated by local ordinance.

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

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

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

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

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

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

203.3 OBJECTIVES
The objectives of the Training Program are to:

(a) Enhance the level of law enforcement service to the public
(b) Increase the technical expertise and overall effectiveness of our personnel
(c) Provide for continued professional development of department personnel

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

(Agency-specific training areas)

203.5 TRAINING NEEDS ASSESSMENT
The Personnel and 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.

203.6 TRAINING COMMITTEE
The Training and Operations Specialist shall establish a Training Committee, which will serve to assist with identifying training needs for the Department.

The Training Committee shall be comprised of at least three members, with the senior ranking member of the committee acting as the chairperson. Members should be selected based on their
Training Policy

abilities at post-incident evaluation and at assessing related training needs. The Training and Operations Specialist may remove or replace members of the committee at his/her discretion.

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

(a) Any incident involving the death or serious injury of an employee.
(b) Incidents involving a high risk of death, serious injury or civil liability.
(c) Incidents identified by a supervisor as appropriate to review to identify possible training needs.

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

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

203.7 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
   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 and Operations Specialist to attend the required training on an alternate date.

203.8 DAILY TRAINING BULLETINS
The Lexipol Daily Training Bulletins (DTBs) is a web-accessed system that provides training on the Cal Poly Pomona 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 and Operations Specialist.

Personnel assigned to participate in DTBs should only use the password and login name assigned to them by the Training and Operations Specialist. 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.
Electronic Mail

204.1 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.

204.2 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. This section shall not apply to union communications unless otherwise required by law.

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

Email messages addressed to the entire Department are only to be used for official business related items that are of particular interest to all users and must be approved by the Chief of Police or a Division Lieutenant. 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.
204.4 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.

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

205.1 PURPOSE AND SCOPE
Administrative communications of this Department are governed by the following policies.

205.2 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.

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

205.4 SURVEYS
All surveys made in the name of the Department shall be authorized by the Chief of Police or a Division Lieutenant.
Retiree Concealed Firearms

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

206.2 POLICY
It is the policy of the Cal Poly Pomona Police Department to provide identification cards to qualified former or retired officers as provided in this policy.

206.3 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.

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

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

206.3.2 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.

206.4 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).

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

   (a) A photograph of the retiree.

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

   (c) The date of retirement.

   (d) The name and address of this Department.

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

206.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION
The Cal Poly Pomona 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):
Retiree Concealed Firearms

(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.

206.4.3 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).

206.5 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.

206.5.1 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.

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

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

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

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

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

206.6 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.

206.7 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.”

(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.

206.8 FIREARM QUALIFICATIONS
The Rangemaster may provide former officers from this Department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Rangemaster will maintain a record of the qualifications and weapons used.
Chapter 3 - General Operations
Use of Force

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

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

300.1.1 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.

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.
Use of Force

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 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 promptly report these observations to a supervisor as soon as feasible (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 the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the Department. 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.
Use of Force

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.
(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.
Use of Force

(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 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD
Officers of this department are not authorized to use a carotid restraint hold. A carotid restraint means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person’s neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person (Government Code § 7286.5).

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

300.3.6 ALTERNATIVE TACTICS - DE-ESCALATION
As time and circumstances reasonably permit, and when community and officer safety would not be compromised, officers should consider actions that may increase officer safety and may decrease the need for using force:
Use of Force

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

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

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

In addition, when reasonable, officers should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)). Such alternatives may include but are not limited to:

(a) Attempts to de-escalate a situation.

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

300.3.7 RESTRICTIONS ON THE USE OF A CHOKE HOLD

Officers of this department 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).

300.4 DEADLY FORCE APPLICATIONS

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

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

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

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

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

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

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.

(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
Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:
Use of Force

(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 Conduct Electrical Weapon 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.

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 Unit Policy.

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

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

(sometimes called “excited delirium”), 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.

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

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

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

(c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
   1. The content of the interview should not be summarized or included in any related criminal charges.
   2. The fact that a recorded interview was conducted should be documented in a property or other report.
   3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

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

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

(f) Review and approve all related reports.

(g) Determine if there is any indication that the subject may pursue civil litigation.
   1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

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

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

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 and Operations Specialist 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.

300.9 USE OF FORCE ANALYSIS
At least annually, the Operations Division Lieutenant should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

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

(b) Training needs recommendations.

(c) Equipment needs recommendations.

(d) Policy revision recommendations.

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

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

300.12 POLICY AVAILABILITY
The Chief of Police or the authorized designee should ensure this policy is accessible to the public (Government Code § 7286(c)).
300.13 PUBLIC RECORDS REQUESTS
Requests for public records involving an officer’s personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records and Records Maintenance and Release policies (Government Code § 7286(b)).
Use of Force Review Boards

301.1 PURPOSE AND SCOPE
This policy establishes a process for the California State University Police Department to review the use of force by its employees that result in death or serious injury as defined in the Investigations of Police Involved Fatal or Serious Injury Incidents Policy.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

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

301.3 REMOVAL FROM LINE DUTY ASSIGNMENT
Generally, whenever an employee’s actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

301.4 REVIEW BOARD
The Use of Force Review Board will be convened when it is determined to be a Police Involved Fatal or Serious Injury Incidents. While the primary purpose of the Use of Force Review Board is to review Police Involved Fatal or Serious Injury Incidents, the Chief of Police may request the Use of Force Review Board to investigate the circumstances surrounding any Use of Force Incident as defined in the Use of Force policy.

The Chief of Police will request to convene the Use of Force Review Board as necessary. The Chief of Police of the affected campus will also ensure that all relevant reports, documents and materials are available for consideration and review by the Use of Force Review Board.

301.4.1 COMPOSITION OF THE BOARD
The Use of Force Review Board members will be:

(a) The Second Chair of the Council of Chiefs will serve as the Chair (Should the campus of the Second Chair be the involved campus, one of the remaining chairs from the Council of Chiefs will serve as Chair); and

(b) Two Chiefs of Police from other campuses.
301.4.2 RESPONSIBILITIES OF THE BOARD
Use of Force Review Board is empowered to conduct an administrative review and inquiry into
the circumstances of an Investigation of Fatal or Serious Injury Incidents.

The board does not have the authority to recommend discipline.

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

The board shall make one of the following recommended findings:

(a) The employee’s actions were within department policy and procedure.
(b) The employee’s actions were in violation of department policy and procedure.

A recommended finding or findings requires a majority vote of the board as to each finding.
The board may also recommend additional investigations or reviews, such as disciplinary
investigations, training reviews to consider whether training should be developed or revised,
and policy reviews, as may be appropriate. The board chairperson will submit the written
recommendation to the Chief of Police of the involved campus.

The Chief of Police shall review the recommendation, make a final determination as to whether the
employee’s actions were within policy and procedure and will determine whether any additional
actions, investigations or reviews are appropriate. If the Chief of Police concludes that discipline
should be considered, a disciplinary process will be initiated in accordance with the Department’s
Personnel Complaint Policy.

At the conclusion of any additional reviews, copies of all relevant reports and information will be
filed with the Chief of Police.
Handcuffing and Restraints

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

302.2 POLICY
The Cal Poly Pomona 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.

302.3 USE OF RESTRAINTS
Only members who have successfully completed Cal Poly Pomona Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

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

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

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

302.3.2 RESTRAINT OF PREGNANT PERSONS
Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg 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
determination that such restraints are necessary for the safety of the arrestee, officers, or others (Penal Code § 3407; Penal Code § 6030).

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

302.3.4 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.

302.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS
Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person’s hands to ensure officer safety.

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

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

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

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

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

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

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

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.

302.6 APPLICATION OF AUXILIARY RERAINT 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.

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

302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS
When applying leg restraints, the following guidelines should be followed:

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

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
(c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on 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).

302.8 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.

302.9 TRAINING
Subject to available resources, the Training and Operations Specialist 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.
Handcuffing and Restraints
Control Devices and Techniques

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

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

303.3 ISSUING, CARRYING AND USING CONTROL DEVICES
Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

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

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

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

303.4 RESPONSIBILITIES

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

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

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

303.4.3 USER RESPONSIBILITIES
All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.
Control Devices and Techniques

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

303.5 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.

303.6 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.

303.7 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.

303.7.1 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.

303.7.2 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.

303.7.3 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.

303.8 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.

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

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

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

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

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

(b) The suspect has made credible threats to harm him/herself or others.
(c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
(d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

303.9.2 DEPLOYMENT CONSIDERATIONS
Before discharging projectiles, the officer should consider such factors as:
(a) Distance and angle to target.
(b) Type of munitions employed.
(c) Type and thickness of subject’s clothing.
(d) The subject’s proximity to others.
(e) The location of the subject.
(f) Whether the subject’s actions dictate the need for an immediate response and the use of control devices appears appropriate.

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

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

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

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

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

When it is not deployed, the shotgun will be unloaded and properly and securely stored in the vehicle. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.
Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

303.10 TRAINING FOR CONTROL DEVICES
The Training and Operations Specialist shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

(a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

(b) All training and proficiency for control devices will be documented in the officer’s training file.

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

303.11 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.
Conducted Energy Device

304.1 PURPOSE AND SCOPE
This policy provides guidelines for the issuance and use of Conduct Electrical Weapons.

304.2 POLICY
The TASER® device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

304.3 ISSUANCE AND CARRYING CONDUCT ELECTRICAL WEAPONS
Only members who have successfully completed department-approved training may be issued and carry the Conduct Electrical Weapon.

Conduct Electrical Weapons 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’s inventory.

Officers shall only use the Conduct Electrical Weapon and cartridges that have been issued by the Department. Uniformed officers who have been issued the Conduct Electrical Weapon shall wear the device in an approved holster on their person. Non-uniformed officers may secure the Conduct Electrical Weapon in the driver’s compartment of their vehicle.

Members carrying the Conduct Electrical Weapon should perform a spark test on the unit prior to every shift.

When carried while in uniform officers shall carry the Conduct Electrical Weapon in a weak-side holster on the side opposite the duty weapon.

(a) All Conduct Electrical Weapons shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.

(b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the Conduct Electrical Weapon.

(c) Officers shall be responsible for ensuring that their issued Conduct Electrical Weapon is properly maintained and in good working order.

(d) Officers should not hold both a firearm and the Conduct Electrical Weapon at the same time.

304.4 VERBAL AND VISUAL WARNINGS
A verbal warning of the intended use of the Conduct Electrical Weapon 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.
Conducted Energy Device

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

If, after a verbal warning, an individual is unwilling 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, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the Conduct Electrical Weapon. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

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 Conduct Electrical Weapon in the related report.

304.5 USE OF THE CONDUCT ELECTRICAL WEAPON

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

304.5.1 APPLICATION OF THE CONDUCT ELECTRICAL WEAPON

The Conduct Electrical Weapon 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 violent or is physically resisting.

(b) The subject 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, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the Conduct Electrical Weapon to apprehend an individual.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the Conduct Electrical Weapon 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 risk of using the device. This includes:

(a) Individuals who are known to be pregnant.

(b) Elderly individuals or obvious juveniles.

(c) Individuals with obviously low body mass.
Conducted Energy Device

(d) Individuals who are handcuffed or otherwise restrained.

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

(f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the Conduct Electrical Weapon in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally 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.

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

304.5.3 TARGETING CONSIDERATIONS
Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the Conduct Electrical Weapon probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE CONDUCT ELECTRICAL WEAPON
Officers should apply the Conduct Electrical Weapon for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the Conduct Electrical Weapon against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the Conduct Electrical Weapon appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the Conduct Electrical Weapon, including:

(a) Whether the probes are making proper contact.

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

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

Officers should generally not intentionally apply more than one Conduct Electrical Weapon at a time against a single subject.
Conducted Energy Device

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS
Officers shall notify a supervisor of all Conduct Electrical Weapon discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject’s skin.

304.5.6 DANGEROUS ANIMALS
The Conduct Electrical Weapon may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

304.5.7 TASER® CAM™
The TASER CAM is activated any time the safety is in the off position. The safety should be in the safe position unless the officer intends to use the device. Because the TASER CAM memory is limited, the video and audio data should be downloaded frequently and retained as required by the department records retention schedule.

304.5.8 OFF-DUTY CONSIDERATIONS
Officers are not authorized to carry department Conduct Electrical Weapons while off-duty. Officers shall ensure that Conduct Electrical Weapons 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.

304.6 DOCUMENTATION
Officers shall document all Conduct Electrical Weapon discharges in the related arrest/crime report and the Conduct Electrical Weapon 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, laser activation and arcing the device will also be documented on the report form.

304.6.1 CONDUCT ELECTRICAL WEAPON FORM
Items that shall be included in the Conduct Electrical Weapon report form are:

(a) The type and brand of Conduct Electrical Weapon and cartridge and cartridge serial number.
(b) Date, time and location of the incident.
(c) Whether any display, laser or arc deterred a subject and gained compliance.
(d) The number of Conduct Electrical Weapon 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 Conduct Electrical Weapon was used.
Conducted Energy Device

(f) The type of mode used (probe or 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 and Operations Specialist should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training and Operations Specialist should also conduct audits of data downloads and reconcile Conduct Electrical Weapon report forms with recorded activations. Conduct Electrical Weapon information and statistics, with identifying information removed, should periodically be made available to the public.

304.6.2 REPORTS

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

(a) Identification of all personnel firing Conduct Electrical Weapons

(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

304.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove Conduct Electrical Weapon probes from a person’s body. Used Conduct Electrical Weapon 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 Conduct Electrical Weapon probes or who have been subjected to the electric discharge of the device 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.
Conducted Energy Device

(d) The Conduct Electrical Weapon 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 (i.e., more than 15 seconds) 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 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 Conduct Electrical Weapon.

304.8 SUPERVISOR RESPONSIBILITIES
A supervisor should respond to all incidents where the Conduct Electrical Weapon was activated.

A supervisor should review each incident where a person has been exposed to an activation of the Conduct Electrical Weapon. The device’s onboard memory should be downloaded through the data port by authorized personnel and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

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

Proficiency training for personnel who have been issued Conduct Electrical Weapons should occur every year. A reassessment of an officer’s knowledge and/or practical skill may be required at any time if deemed appropriate by the Training and Operations Specialist. All training and proficiency for Conduct Electrical Weapons will be documented in the officer’s training file.

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

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

The Training and Operations Specialist is responsible for ensuring that all members who carry Conduct Electrical Weapons have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of Conduct Electrical Weapons during training could result in injury to personnel and should not be mandatory for certification.
Conducted Energy Device

The Training and Operations Specialist should ensure that all training includes:

(a) A review of this policy.

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

(c) Performing weak-hand draws or cross-draws 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 near the head, neck, chest and groin.

(e) Handcuffing a subject during the application of the Conduct Electrical Weapon and transitioning to other force options.

(f) De-escalation techniques.

(g) Restraint techniques that do not impair respiration following the application of the Conduct Electrical Weapon.
Officer-Involved Shootings and Deaths

305.1 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 other 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.

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

305.3 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.

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

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

305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS
The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Cal Poly Pomona Police Department would control the investigation if the suspect's crime occurred in Cal Poly Pomona.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.
305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS
The control of the criminal investigation into the involved officer’s conduct during the incident will be determined by the employing agency’s protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

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

305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION
Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

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

305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES
Upon arrival at the scene of an officer-involved shooting, the first uninvolved UPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

(a) Secure the scene and identify and eliminate hazards for all those involved.
(b) Take reasonable steps to obtain emergency medical attention for injured individuals.
(c) Request additional resources from the Department or other agencies.
(d) Coordinate a perimeter or pursuit of suspects.
(e) Check for injured persons and evacuate as needed.
(f) Brief the supervisor upon arrival.

305.5.2 SUPERVISOR RESPONSIBILITIES
Upon arrival at the scene, the first uninvolved UPD supervisor should ensure completion of the duties as outlined above, plus:

(a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
   1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.

(b) If necessary, the supervisor may administratively order any UPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
   1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.

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

(d) Take command of and secure the incident scene with additional UPD members until properly relieved by another supervisor or other assigned personnel or investigator.

(e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.

1. Each involved UPD officer should be given an administrative order not to discuss the incident with other involved officers or UPD members pending further direction from a supervisor.

2. When an involved officer’s weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

305.5.3 WATCH COMMANDER RESPONSIBILITIES

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

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

305.5.4 NOTIFICATIONS

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

- Chief of Police
- Operations Division Lieutenant
- Officer Involved Shooting rollout team
- Outside agency investigator (if appropriate)
- Internal Affairs Unit supervisor
- Civil liability response team
- Psychological/peer support personnel
- Chaplain
- Coroner (if necessary)
- Involved officer’s agency representative (if requested)
- Assistant Vice President of Strategic Communications
- SUPA
305.5.5 INVOLVED OFFICERS
The following shall be considered for the involved officer:

(a) Any request for legal or union representation will be accommodated.
   1. Involved UPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
   2. Requests from involved non-UPD officers should be referred to their employing agency.

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

(c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).

(d) A licensed psychotherapist shall be provided by the Department to each involved UPD officer. A licensed psychotherapist may also be provided to any other affected UPD members, upon request.
   1. Interviews with a licensed psychotherapist will be considered privileged.
   2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
   3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

(e) Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer (Government Code § 8669.4).

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

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

305.6 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) UPD supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of UPD 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 his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). 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.

305.6.1 REPORTS BY INVOLVED UPD OFFICERS

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

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

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

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

305.6.2 INVESTIGATIVE PERSONNEL

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

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

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

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

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
   1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

(c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

305.7 ADMINISTRATIVE INVESTIGATION
In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of UPD officers to determine conformance with department policy. The investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws (see the Personnel Complaints Policy).
Officer-Involved Shootings and Deaths

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

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

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

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

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

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

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

   4. The officer shall be informed of the nature of the investigation. He/she shall be given the Miranda advisement and shall be given his/her Lybarger or Garrity rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.

   5. The Internal Affairs Unit shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.

   6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.

   7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.
305.8 CIVIL LIABILITY RESPONSE
A member of this department may be assigned to work exclusively under the direction of the legal counsel for the Department to assist in the preparation of materials deemed necessary in anticipation of potential civil litigation.

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

305.9 AUDIO AND VIDEO RECORDINGS
Any officer involved in a Police Involved Fatal or Serious Injury Incident shall be permitted to review his/her/their Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings that depicts their vantage point/field of view during the Police Involved or Serious Injury Incident prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted to review available MAV, body-worn video, or other video or audio recordings with approval of assigned investigators or a supervisor.

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

305.10 DEBRIEFING
Following an officer-involved shooting or death, the Cal Poly Pomona Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

305.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING
A critical incident/stress debriefing should occur as soon as practicable. The Administrative Services Division Lieutenant is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

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 shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, other civilian personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Internal Affairs Unit personnel.
305.10.2 TACTICAL DEBRIEFING
A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

305.11 MEDIA RELATIONS
Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Watch Commander, Operations Division Lieutenant and Assistant Vice President of Strategic Communications in the event of inquiries from the media.

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

305.12 REPORTING
If the death of an individual occurs in the Cal Poly Pomona Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Operations Division Lieutenant will ensure that the Records Supervisor is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).
Vehicle Pursuits

307.1 PURPOSE AND SCOPE
This policy provides guidelines for vehicle pursuits in order to protect the safety of involved officers, the public, and fleeing suspects.

307.1.1 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.

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.

307.2 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).

307.2.1 WHEN TO INITIATE A PURSUIT
Officers are authorized to initiate a pursuit when the officer reasonably believes that a suspect, who has been given appropriate signal to stop by a law enforcement officer, is attempting to evade arrest or detention by fleeing in a vehicle.

Factors that should be considered in deciding whether to initiate a pursuit include:

(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.

307.2.2 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.
Vehicle Pursuits

The factors listed in this policy on when to initiate a pursuit will apply equally to the decision to terminate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves, and the public when electing to continue a pursuit.

In addition to the factors that govern when to initiate a pursuit, other factors should be considered in deciding whether to terminate a pursuit, including:

(a) The distance between the pursuing vehicle and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.

(b) The pursued vehicle’s location is no longer definitely known.

(c) The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.

(d) The pursuing vehicle’s emergency lighting equipment or siren becomes partially or completely inoperable.

(e) Hazards to uninvolved bystanders or motorists.

(f) The danger that the continued pursuit poses to the public, the officers, or the suspect, balanced against the risk of allowing the suspect to remain at large.

(g) The identity of the suspect is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit.

(h) Extended pursuits of violators for misdemeanors not involving violence, risk of serious harm, or weapons (independent of the pursuit) are generally discouraged.

307.2.3 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.

307.3 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.
Vehicle Pursuits

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.

307.3.1 MOTORCYCLE OFFICERS
When involved in a pursuit, police department motorcycles should be replaced by marked four-wheel emergency vehicles as soon as practicable.

307.3.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT
Officers operating vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

307.3.3 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.

307.3.4 SECONDARY UNIT RESPONSIBILITIES
The second officer in the pursuit will be designated as the secondary unit and is responsible for:
Vehicle Pursuits

(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.
(c) Broadcasting the progress, updating known or critical information, and providing changes in the pursuit, unless the situation indicates otherwise.
(d) Identifying the need for additional resources or equipment as appropriate.
(e) Serving as backup to the primary pursuing officer once the suspect has been stopped.

307.3.5 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.

307.3.6 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.
307.3.7 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 should consider whether the participation of air support warrants the continued close proximity and/or involvement of ground units in the pursuit.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit and provide officers and supervisors with details of upcoming traffic congestion, road hazards, or other pertinent information to evaluate whether to continue the pursuit. If ground units are not within visual contact of the pursued vehicle and the air support unit determines that it is unsafe to continue the pursuit, the air support unit should recommend terminating the pursuit.

307.3.8 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.

307.4 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.
Vehicle Pursuits

(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 Cal Poly Pomona Police Department units when a pursuit enters another jurisdiction.

(k) Preparing a post-pursuit review and documentation of the pursuit.

1. Supervisors should initiate follow up or additional review when appropriate.

307.4.1 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 Division Lieutenant.

307.5 THE DISPATCH CENTER

If the pursuit is confined within the State 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.

307.5.1 THE DISPATCH CENTER RESPONSIBILITIES

Upon notification or becoming aware that a pursuit has been initiated, the dispatcher is responsible for:

(a) Clearing the radio channel of non-emergency traffic.

(b) Coordinating pursuit communications of the involved units and personnel.

(c) Broadcasting pursuit updates as well as other pertinent information as necessary.

(d) Ensuring that a field supervisor is notified of the pursuit.

(e) Notifying and coordinating with other involved or affected agencies as practicable.

(f) Notify the Watch Commander as soon as practicable.

(g) Assigning an incident number and logging all pursuit activities.

307.5.2 LOSS OF PURSUED VEHICLE

When the pursued vehicle is lost, the primary unit should broadcast pertinent information to assist other units in locating suspects. The primary unit or supervisor will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.
307.6 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.

307.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY
Officers will relinquish control of the pursuit when another agency has assumed the pursuit, unless the continued assistance of the Cal Poly Pomona Police Department is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved officers may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation. The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for any reports. Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific.

307.6.2 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 Cal Poly Pomona 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 State 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 scene control, coordination and completion of supplemental reports, and any other reasonable assistance requested or needed.

307.7 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.

307.7.1 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).

307.7.2 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 current POST approved training in the technique.
   2. The need to immediately stop the suspect vehicle or prevent it from leaving reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
   3. It reasonably appears the technique will contain or prevent the pursuit.

(b) The PIT should only be used after giving consideration to the following:
   1. The technique should only be used by officers who have received current POST approved 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.
Vehicle Pursuits

(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 current POST approved 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 current POST approved training in their use.
2. Supervisory approval should be obtained before using tire deflation devices.
3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the use will terminate or prevent the pursuit.
5. Tire deflation devices should not be used when the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, except in extraordinary circumstances.
6. Due to the increased risk to officers deploying tire deflation devices, such deployment should be communicated to all involved personnel.

(f) Roadblocks should only be used after considering the following:

1. Roadblocks should only be used by officers who have received current POST approved training in their use.
2. Supervisory approval should be obtained before using the technique.
3. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.

4. It reasonably appears the technique will terminate or prevent the pursuit. Roadblocks may be used only under circumstances when deadly force would be authorized.

5. Roadblocks may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.

307.7.3 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.

307.8 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 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.

307.8.1 REGULAR AND PERIODIC PURSUIT TRAINING
The Training and Operations Specialist shall make available to all officers initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, 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 (Vehicle Code § 17004.7(d)).

307.8.2 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 POST attestation form, or an equivalent form, may be used to document the compliance and should be retained in the member’s training file.

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

307.10 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.
Officer Response to Calls

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

308.2 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.

308.3 REQUESTING EMERGENCY ASSISTANCE
Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify the Dispatch Center.

If circumstances permit, the requesting officer should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

308.3.1 NUMBER OF UNITS ASSIGNED
Normally, only one unit should respond to an emergency call Code-3 unless the Watch Commander or the field supervisor authorizes an additional unit(s).

308.4 INITIATING CODE 3 RESPONSE
If an officer believes a Code-3 response to any call is appropriate, the officer shall immediately notify the Dispatch Center. Generally, only one unit should respond Code-3 to any situation. Should another officer believe a Code-3 response is appropriate, the Dispatch Center shall be
notified and the Watch Commander or field supervisor will make a determination as to whether one or more officers driving Code-3 is appropriate.

308.5 RESPONSIBILITIES OF RESPONDING OFFICERS
Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.

The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer’s judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify the Dispatch Center. An officer shall also discontinue the Code-3 response when directed by a supervisor.

Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.

308.6 COMMUNICATIONS RESPONSIBILITIES
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

308.7 SUPERVISORY RESPONSIBILITIES
Upon being notified that a Code-3 response has been initiated, the Watch Commander or the field supervisor shall verify the following:

(a) The proper response has been initiated
(b) No more than those units reasonably necessary under the circumstances are involved in the response
(c) Affected outside jurisdictions are being notified as practical
**Officer Response to Calls**

The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.

It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment is inappropriate due to the circumstances.

When making the decision to authorize a Code-3 response, the Watch Commander or the field supervisor should consider the following:

- The type of call
- The necessity of a timely response
- Traffic and roadway conditions
- The location of the responding units

**308.8 FAILURE OF EMERGENCY EQUIPMENT**

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly. In all cases, the officer shall notify the Watch Commander, field supervisor, or the Dispatch Center of the equipment failure so that another unit may be assigned to the emergency response.
Domestic Violence

310.1 PURPOSE AND SCOPE
The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

310.1.1 DEFINITIONS
Definitions related to this policy include:

Court order - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

310.2 POLICY
The Cal Poly Pomona Police Department’s response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims’ and offenders’ access to appropriate civil remedies and community resources whenever feasible.

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

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

(a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.

(b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.

(c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
(d) When practicable and legally permitted, video or audio record all significant statements and observations.

(e) All injuries should be photographed, regardless of severity, taking care to preserve the victim’s personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Detective Bureau in the event that the injuries later become visible.

(f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.

(g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.

(h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).

(i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.

(j) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred.

310.4.1 IF A SUSPECT IS ARRESTED
If a suspect is arrested, officers should:

(a) Advise the victim that there is no guarantee the suspect will remain in custody.

(b) Provide the victim’s contact information to the jail staff to enable notification of the victim upon the suspect’s release from jail.

(c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

310.4.2 IF NO ARREST IS MADE
If no arrest is made, the officer should:

(a) Advise the parties of any options, including but not limited to:

1. Voluntary separation of the parties.

2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).

(b) Document the resolution in a report.
310.5 VICTIM ASSISTANCE
Victims may be traumatized or confused. Officers should:

(a) Recognize that a victim’s behavior and actions may be affected.
(b) Provide the victim with the department’s domestic violence information handout, even if the incident may not rise to the level of a crime.
(c) Alert the victim to any available victim advocates, shelters and community resources.
(d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
(e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
(f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
(g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
(h) Seek or assist the victim in obtaining an emergency order if appropriate.

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

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

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

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

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).
310.8 VERIFICATION OF COURT ORDERS
Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and where appropriate and practicable:

(a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
   1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the officer shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).

(b) Check available records or databases that may show the status or conditions of the order.
   1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).

(c) Contact the issuing court to verify the validity of the order.

(d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

310.9 LEGAL MANDATES AND RELEVANT LAWS
California law provides for the following:

310.9.1 STANDARDS FOR ARRESTS
Officers investigating a domestic violence report should consider the following:

(a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
   1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).

(b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of his/her right to make a private person’s arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person’s arrest. Officers should refer to the provisions in the Private Persons
Arrests Policy for options regarding the disposition of private person’s arrests (Penal Code § 836(b)).

(c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
   1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
   2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender’s child)
   3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
   4. Penal Code § 646.9 (stalking)
   5. Other serious or violent felonies specified in Penal Code § 1270.1

(d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:
   1. The intent of the law to protect victims of domestic violence from continuing abuse.
   2. The threats creating fear of physical injury.
   3. The history of domestic violence between the persons involved.
   4. Whether either person acted in self-defense.

(e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the officer’s presence. After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

310.9.2 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).
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(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)(2)).

(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 him/her with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

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

310.9.4 REPORTS AND RECORDS

(a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.

(b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.

(c) Officers who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)(2)).

310.9.5 RECORD-KEEPING AND DATA COLLECTION
This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Records Supervisor to maintain and report this information as required.
310.9.6 DECLARATION IN SUPPORT OF BAIL INCREASE
If a defendant is arrested without a warrant for a bailable felony offense or for the misdemeanor offense of violating a domestic violence restraining order, and a peace officer has reasonable cause to believe that the amount of bail set forth in the schedule of bail for that offense is insufficient to ensure the defendant's appearance or to ensure the protection of a victim, or family member of a victim of domestic violence, the peace officer shall prepare a declaration under penalty of perjury setting forth the facts and circumstances in support of his or her belief, requesting an order setting a higher bail.
Search and Seizure

311.1 PURPOSE AND SCOPE
Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Cal Poly Pomona Police Department personnel to consider when dealing with search and seizure issues.

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

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

311.3 SEARCHES
The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.
311.4 SEARCH PROTOCOL
Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

(a) Members of this department will strive to conduct searches with dignity and courtesy.

(b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.

(c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.

(d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.

(e) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:

1. Another officer or a supervisor should witness the search.

2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

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

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

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.
Temporary Custody of Juveniles

312.1 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 Cal Poly Pomona Police Department (34 USC § 11133).

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

312.1.1 DEFINITIONS
Definitions related to this policy include:

**Juvenile non-offender** - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her 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 his/her 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.

(c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
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(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).

312.2 POLICY
The Cal Poly Pomona 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 Cal Poly Pomona Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release.

312.3 JUVENILES WHO SHOULD NOT BE HELD
Juveniles who exhibit any of the following conditions should not be held at the Cal Poly Pomona Police Department:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).

(e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation (15 CCR 1142; 15 CCR 1151).

These juveniles should not be held at the Cal Poly Pomona Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).
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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).

312.3.1 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).

312.3.2 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 him/herself, or any unusual behavior which may indicate the juvenile may harm him/herself while in either secure or non-secure custody (15 CCR 1142).

312.4 CUSTODY OF JUVENILES
Officers should take custody of a juvenile and temporarily hold the juvenile at the Cal Poly Pomona 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 Cal Poly Pomona 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 his/her entry into the Cal Poly Pomona Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1).

312.4.1 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 Cal Poly Pomona 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).

312.4.2 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).

312.4.3 CUSTODY OF JUVENILE OFFENDERS
Juvenile offenders should be held in non-secure custody while at the Cal Poly Pomona 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 his/her 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).

312.5 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, he/she 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, he/she 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 his/her parent or guardian; one to a responsible relative or his/her 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).

### 312.6 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 Cal Poly Pomona Police Department (15 CCR 1150).
(c) Watch Commander notification and approval to temporarily hold the juvenile.
(d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.
(e) Any changes in status (e.g., emergency situations, unusual incidents).
(f) Time of all safety checks.
(g) Any medical and other screening requested and completed (15 CCR 1142).
(h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1; 15 CCR 1145).
(i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Watch Commander shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

### 312.7 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
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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 Cal Poly Pomona 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).

312.8 TEMPORARY CUSTODY REQUIREMENTS
Members and supervisors assigned to monitor or process any juvenile at the Cal Poly Pomona 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 Cal Poly Pomona Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Cal Poly Pomona Police Department more than six hours.

(b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.

(c) Personal safety checks and significant incidents/activities shall be noted on the log.

(d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
   1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
   2. This does not apply to surreptitious and legally obtained recorded interrogations.

(e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).

(f) 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).

(g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).

(h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.

(i) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).

(j) 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).

(k) Blankets shall be provided as reasonably necessary (15 CCR 1143).
   1. The supervisor should ensure that there is an adequate supply of clean blankets.
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(l) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.
(m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
(n) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.
(o) 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).

312.9 RELIGIOUS ACCOMMODATION
Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

312.10 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 Cal Poly Pomona Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Watch Commander. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others (15 CCR 1142).

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse (15 CCR 1142).

312.11 PERSONAL PROPERTY
The officer taking custody of a juvenile offender or status offender at the Cal Poly Pomona 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 Cal Poly Pomona Police Department.

312.12 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 him/herself or others. Factors to be considered when
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determining if the juvenile offender presents a serious security risk to him/herself 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).

312.12.1 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 his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
3. Requests or concerns of the juvenile should be logged.
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(e) Males and females 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.

**312.13 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 Cal Poly Pomona Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

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

(e) Notification to the coroner.

(f) Notification of the juvenile court.

(g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).

(h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.

(i) Evidence preservation.

**312.14 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.

**312.14.1 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
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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.

(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).

312.15 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor, or in his/her 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 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
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312.16  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 Cal Poly Pomona 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.

312.17  BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION
The Operations Division Lieutenant shall coordinate the procedures related to the custody of juveniles held at the Cal Poly Pomona Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).
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313.1 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 Cal Poly Pomona Police Department members as required by law (Penal Code § 368.6).

The Cal Poly Pomona 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).

313.1.1 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
313.2 POLICY
The Cal Poly Pomona Police Department will investigate all reported incidents of alleged elder and dependent adult abuse and ensure proper reporting and notification as required by law.

313.2.1 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).

313.2.2 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)).

313.3 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.
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.

Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.

Whether the victim was transported for medical treatment or a medical examination.

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.

Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.

Previous addresses of the victim and suspect.

Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim’s environment.

Witness and suspect statements if available.

Review of all portable audio/video recorders, devices, and other available video.

Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.

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).

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)).

Whether a death involved the End of Life Option Act:

1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).

2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person’s life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).

3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).

4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

Any unexplained death of an adult who was in the care of a guardian or caretaker should be considered as potential elder or dependent adult abuse and investigated similarly.

An unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability should be treated as a potential homicide until a complete investigation including an
autopsy is completed, and it should not be assumed that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased (Penal Code § 368.6(c)(18)).

313.3.1 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)).

313.4 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).
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.

313.5 MANDATORY NOTIFICATION

Members of the Cal Poly Pomona 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 he/she 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 occurring in a long-term care facility.

(d) The SDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.
(e) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.

(f) The Bureau 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)).

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

(a) The name of the person making the report.

(b) The name and age of the elder or dependent adult.

(c) The present location of the elder or dependent adult.
(d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.

(e) The nature and extent of the condition of the elder or dependent adult.

(f) The date of incident.

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

### 313.6 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.

#### 313.6.1 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)).

#### 313.6.2 VERIFICATION OF PROTECTIVE ORDER

Whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the person from possession of firearms or requires the relinquishment of firearms, and if the order does so, the officer shall make reasonable efforts to (Penal Code § 368.6(c)(19)):
(a) Inquire whether the restrained person possesses firearms. The officer should make this effort by asking the restrained person and the protected person.

(b) Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.

(c) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search in compliance with Penal Code § 18250 et seq. and in accordance with department procedures.

313.7 INTERVIEWS

313.7.1 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.

313.7.2 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) Existent 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.

313.7.3 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).

313.8 MEDICAL EXAMINATIONS
When an elder or dependent adult abuse investigation requires a medical examination, the investigating officer should obtain consent for such examination from the victim, guardian, agency, or entity having legal custody of the adult. The officer should also arrange for the adult’s transportation to the appropriate medical facility.
In cases where the alleged offender is a family member, guardian, agency, or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

313.9 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.

313.9.1 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.

313.9.1 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.

313.10 RECORDS BUREAU RESPONSIBILITIES
The Records Unit 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.
313.11 JURISDICTION
The Cal Poly Pomona Police Department has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

Adult protective services agencies and local long-term care ombudsman programs also have jurisdiction within their statutory authority to investigate elder and dependent adult abuse and criminal neglect and may assist in criminal investigations upon request, if consistent with federal law, in such cases. However, this department will retain responsibility for the criminal investigations (Penal Code § 368.5).

Additional jurisdiction responsibilities for investigations of abuse involving various facilities and agencies may be found in Welfare and Institutions Code § 15650.

313.12 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.
(e) Cultural competence (including interpretive services) related to elder and dependent adult abuse investigations.
(f) Availability of victim advocates or other support.

313.12.1 MANDATORY TRAINING
The Training and Operations Specialist 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)(11)).
   (b) Information on the history of elder and dependent adult abuse and crimes against individuals with disabilities (see the POST Senior and Disability Victimization Policy Guidelines).
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The Training and Operations Specialist 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)).

313.13 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)

Any 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 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
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the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.

3. False imprisonment, as defined in Section 236 of the Penal Code.

4. Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe.

Welfare and Institutions Code § 15610.57

(a) “Neglect” means either of the following:

1. The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.

2. The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

1. Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.

2. Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she 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. Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

Welfare and Institutions Code § 15610.63

“Physical abuse” means any of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
Senior and Disability Victimization

(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.
   3. Rape in concert, as described in Section 264.1 of the Penal Code.
   4. Spousal rape, as defined in Section 262 of the Penal Code.
   5. Incest, as defined in Section 285 of the Penal Code.
   6. Sodomy, as defined in Section 286 of the Penal Code.
   7. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
   8. Sexual penetration, as defined in Section 289 of the Penal Code.
   9. 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.

313.14 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).
Senior and Disability Victimization

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) Ensure 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) Ensure 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) Ensure this policy is available to the Protection and Advocacy Agency upon request.

313.15 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):
Senior and Disability Victimization

(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.
Child Abuse

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

314.1.1 DEFINITIONS
Definitions related to this policy include:

**Child** - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

**Child abuse** - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child’s care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code § 11165.9; Penal Code § 11166).

314.2 POLICY
The Cal Poly Pomona Police Department will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law.

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

(a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child’s welfare, or

(b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

The District Attorney’s office shall be notified in all instances of known or suspected child abuse or neglect reported to this department. Reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care or supervision where no physical injury to the child has occurred should not be reported to the District Attorney (Penal Code § 11166).

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority (Penal Code 11166.1; Penal Code 11166.2).
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For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1); neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

314.3.1 NOTIFICATION PROCEDURE
Notification should occur as follows (Penal Code § 11166):

(a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.
(b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

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

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

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

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

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

(c) Any relevant statements the child may have made and to whom he/she made the statements.

(d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

(f) Whether the child victim was transported for medical treatment or a medical examination.

(g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

(h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

(i) Previous addresses of the victim and suspect.

(j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim’s environment.

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

314.5.1 EXTRA JURISDICTIONAL REPORTS

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code 11165.9).

314.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact CPS. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.
Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

(a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, and further has good cause to believe that any of the following conditions exist:

1. The child has an immediate need for medical care.
2. The child is in immediate danger of physical or sexual abuse.
3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child’s health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.

(b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:

1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
2. There is no lawful custodian available to take custody of the child.
3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
4. The child is an abducted child.

(c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

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

314.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW
An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.
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314.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS
Under certain circumstances, officers can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs.

Officers shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

314.7 INTERVIEWS

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

314.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW
An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:
   1. A reasonable belief that medical issues of the child need to be addressed immediately.
   2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
   3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

(b) A court order or warrant has been issued.

314.7.3 INTERVIEWS AT A SCHOOL
Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3).

314.8 MEDICAL EXAMINATIONS
If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency...
having legal custody of the child. The officer should also arrange for the child’s transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

314.9 DRUG-ENDANGERED CHILDREN
A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

314.9.1 SUPERVISOR RESPONSIBILITIES
The Detective Bureau supervisor should:

(a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

(b) Activate any available interagency response when an officer notifies the Detective Bureau supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

(c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

314.9.2 OFFICER RESPONSIBILITIES
Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

(a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Detective Bureau supervisor so an interagency response can begin.

314.10 STATE MANDATES AND OTHER RELEVANT LAWS
California requires or permits the following:
314.10.1 RELEASE OF REPORTS
Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Penal Code 841.5; Penal Code § 11167.5).

314.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX (CACI)
Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California’s CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

314.10.3 CACI HEARING OFFICER
The Detective Bureau supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person’s name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

314.10.4 CACI HEARING PROCEDURES
The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

(a) Case reports including any supplemental reports
(b) Statements by investigators
(c) Statements from representatives of the District Attorney’s Office
(d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party’s name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the
person’s name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

314.10.5 CHILD DEATH REVIEW TEAM
This department should cooperate with any interagency child death review team investigation. Written and oral information relating to the death of a child that would otherwise be subject to release restrictions may be disclosed to the child death review team upon written request and approval of a supervisor (Penal Code § 11174.32).

314.11 TRAINING
The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

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

315.1 PURPOSE AND SCOPE
This policy provides guidance for handling missing person investigations.

315.1.1 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).

315.2 POLICY
The Cal Poly Pomona 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 Cal Poly Pomona 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).

315.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS
The Operations 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 Persons

- Missing person school notification form
- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

315.4 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).

315.5 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 shall be broadcast without delay within the Department's jurisdiction. (Penal Code § 14211).
(e) Ensure that entries are made into the appropriate missing person networks within two hours of the time of the initial report:
(f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
(g) Collect and/or review:
   1. A photograph and a fingerprint card of the missing person, if available.
   2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
   3. Any documents that may assist in the investigation, such as court orders regarding custody.
   4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
(h) When circumstances permit and if appropriate, attempt to determine the missing person’s location through his/her telecommunications carrier.

(i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

315.6 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.

315.6.1 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 Unit.

(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.

315.6.2 RECORDS UNIT RESPONSIBILITIES
The receiving member shall:

(a) As soon as reasonable under the circumstances, notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person’s residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14211).

(b) Notify and forward a copy of the report to the law enforcement agency in whose jurisdiction the missing person was last seen (Penal Code § 14211).

(c) Notify and forward a copy of the report to the law enforcement agency having jurisdiction over the missing person’s intended or possible destination, if known.

(d) Forward a copy of the report to the 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).

315.7 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).

(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).
315.8 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) Immediately notify the Attorney General's Office.
(b) Notification shall be made to any other law enforcement agency that took the initial report within 24 hours.
(c) In the event that a missing person is found alive or dead in less than 24 hours and the local police or sheriff's department has reason to believe that the person had been abducted, the Department shall submit a report to the National Crime Information Center in a format established by the Attorney General. In the event that a missing person has been found before he or she has been reported missing to the center, the information related to the incident shall be submitted to the center.
(d) The missing person's school is notified.

315.8.1 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.

315.9 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 Cal Poly Pomona 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.
(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.

315.10 TRAINING
Subject to available resources, the Training and Operations Specialist 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.
Public Alerts

316.1 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.

316.1 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).

316.1.1 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.

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

316.2 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.

316.3 RESPONSIBILITIES

316.3.1 EMPLOYEE RESPONSIBILITIES
Employees of the Cal Poly Pomona 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.

316.3.2 SUPERVISOR RESPONSIBILITIES
A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Division Lieutenant and the Assistant Vice President of Strategic Communications when any public alert is generated.
Public Alerts

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 Lieutenant

316.4 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.

316.4.1 CRITERIA FOR AMBER ALERT
The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

(a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.
(b) The victim is 17 years of age or younger, or has a proven mental or physical disability.
(c) The victim is in imminent danger of serious injury or death.
(d) There is information available that, if provided to the public, could assist in the child's safe recovery.

316.4.2 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 Assistant Vice President of Strategic Communications or other authorized individual to handle media liaison
7. A telephone number for the public to call with leads or information
Public Alerts

(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)

316.5 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.

316.5.1 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.

316.5.2 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
Public Alerts

4. Detail regarding location of incident, direction of travel, potential destinations, if known
5. Name and telephone number of the Assistant Vice President of Strategic Communications 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

316.6 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).

316.6.1 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.

316.6.2 PROCEDURE FOR SILVER ALERT
Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).
316.9 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. He/she will provide you with a telephone number for the public to call.

(b) In the press release, direct the public to the telephone number provided by the Sheriff’s
Department Watch Commander.

(c) The Assistant Vice President of Strategic Communications 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 Cal Poly Pomona 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.
Victim and Witness Assistance

317.1 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.

317.2 POLICY
The Cal Poly Pomona Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Cal Poly Pomona 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.

317.3 CRIME VICTIM LIAISON
The Chief of Police shall appoint a member of the Department to serve as the crime victim liaison (2 CCR 649.36). The crime victim liaison will be the point of contact for individuals requiring further assistance or information from the Cal Poly Pomona 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.

317.3.1 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 his/her 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 Cal Poly Pomona Police Department jurisdiction (Penal Code § 680.2).
317.4 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.

317.4.1 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).

317.5 VICTIM INFORMATION
The Administrative Services Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

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

(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).

317.6 WITNESSES

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

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

318.1 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.

318.2 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.

318.2.1 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.

(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 and Operations Specialist 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 Unit for mandated reporting to the Department of Justice.

(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 Unit 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.

318.2.2 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.
Hate Crimes

(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.

318.3 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 Cal Poly Pomona 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).

318.3.1 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, 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 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, whether or not 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:
Hate Crimes

1. “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 Penal Code § 422.55(a).

Note: A “hate crime” need not be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate incident - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places
- Displaying hate material on your own property

Hate speech - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part - “In whole or in part because of” means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

Nationality - Nationality 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.
Hate Crimes

Sexual orientation - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim - Victim includes but is not limited to:
- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

318.5 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 and gender bias.

(b) Accurate reporting by officers, including information on the general underreporting of hate crimes.

(c) Distribution of hate crime brochures.

318.6 APPENDIX
See attachments:
Statutes and Legal Requirements.pdf
Hate Crime Checklist.pdf

318.8 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP
318.8.1 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.
   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 § 6254.
   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).


318.8.2 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 § 6254) 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).

(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.

318.8.3 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.
4. Prior occurrences, in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. Document the victim's protected characteristics.

(h) Provide victim assistance and follow-up.
(i) Canvass the area for additional witnesses.
(j) Examine suspect's social media activity for potential evidence of bias motivation.
(k) Coordinate the investigation with department, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
(l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Department.
(m) Determine if the incident should be classified as a hate crime.
(n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:
   1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
   2. Provide ongoing information to victims about the status of the criminal investigation.
   3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).
(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.
Standards of Conduct

319.1 PURPOSE AND SCOPE
This policy establishes standards of conduct that are consistent with the values and mission of the Cal Poly Pomona 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.

319.2 POLICY
The continued employment or appointment of every member of the Cal Poly Pomona 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.

319.3 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.

319.3.1 UNLAWFUL OR CONFLICTING ORDERS
Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.
The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

319.3.2 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.

319.4 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.

319.5 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:

319.5.1 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 State 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.
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319.5.2 ETHICS

(a) Using or disclosing one’s status as a member of the Cal Poly Pomona Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department 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.

319.5.3 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.

319.5.4 RELATIONSHIPS

(a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one’s official capacity.

(b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

(c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.

(d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.

(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.
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319.5.5 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.

319.5.6 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.

(e) Using department resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and non-subpoenaed records.

319.5.7 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 Employee and Organizational Development and Advancement of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.
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319.5.8 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 work-related investigation.

   (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.

   (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.

   (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

   (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.

   (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
       1. While on department premises.
       2. At any work site, while on-duty 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 on-duty at official legislative or political sessions.
       2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on department property except as expressly authorized by State policy, the memorandum of understanding, or the Chief of Police.

   (h) Engaging in political activities during assigned working hours except as expressly authorized by State policy, the memorandum of understanding, or the Chief of Police.

   (i) Any act on- or off-duty that brings discredit to this department.

319.5.9 CONDUCT
   (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law
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enforcement agency or that may result in criminal prosecution or discipline under this policy.

(b) Unreasonable and unwarranted force to a person encountered or a person under arrest.

(c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.

(d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.

(e) Engaging in horseplay that reasonably could result in injury or property damage.

(f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the State.

(g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.

(h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member’s relationship with this department.

(i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.

(j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.

(k) Activity that is incompatible with a member’s conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.

(l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.

(m) Any other on- or off-duty 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.

319.5.10 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.

319.5.11 INTOXICANTS

(a) Reporting for work or being at work while intoxicated or when the member’s ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.

(b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

(c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.
Information Technology Use

320.1 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.

320.1.1 DEFINITIONS
Definitions related to this policy include:

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

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

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

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

320.2 POLICY
It is the policy of the Cal Poly Pomona 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.

320.3 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).

**320.4   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.

**320.4.1   SOFTWARE**

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

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department 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 State-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.

**320.4.2   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.
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320.4.3 INTERNET USE
Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include but are not limited to adult forums, pornography, gambling, chat rooms, and similar or related internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member’s assignment.

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

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

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

320.5 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.

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.

320.6 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 University-owned electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department
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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.
Department Use of Social Media

321.1 PURPOSE AND SCOPE
This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

321.1.1 DEFINITIONS
Definitions related to this policy include:

**Social media** - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services

321.2 POLICY
The Cal Poly Pomona Police Department may use social media as a method of effectively informing the public about department services, issues, investigations and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

321.3 AUTHORIZED USERS
Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over department social media by members who are not authorized to post should be made through the member’s chain of command.

321.4 AUTHORIZED CONTENT
Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.
Examples of appropriate content include:

(a) Announcements.
(b) Tips and information related to crime prevention.
(c) Investigative requests for information.
(d) Requests that ask the community to engage in projects that are relevant to the department mission.
(e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
(f) Traffic information.
(g) Press releases.
(h) Recruitment of personnel.

321.4.1 INCIDENT-SPECIFIC USE
In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Assistant Vice President of Strategic Communications or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

321.5 PROHIBITED CONTENT
Content that is prohibited from posting includes, but is not limited to:

(a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
(b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
(c) Any information that could compromise an ongoing investigation.
(d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Cal Poly Pomona Police Department or its members.
(e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.
(f) Any content posted for personal use.
(g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this department’s social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

321.5.1 PUBLIC POSTING PROHIBITED
Department social media sites shall be designed and maintained to prevent posting of content by the public.
Department Use of Social Media

The Department may provide a method for members of the public to contact department members directly.

321.6 MONITORING CONTENT
The Chief of Police will appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

321.7 RETENTION OF RECORDS
The Administrative Services Division Lieutenant should work with the Custodian of Records to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

321.8 TRAINING
Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.
Report Preparation

322.1 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.

322.1.1 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.

322.2 REQUIRED REPORTING
Written reports are required in all of the following situations on the appropriate department approved form unless otherwise approved by a supervisor.

322.2.1 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
3. Child Abuse Policy
4. Adult Abuse 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).

322.2.2 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

322.2.3 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.
Report Preparation

322.2.4 INJURY OR DAMAGE BY STATE PERSONNEL
Reports shall be taken if an injury occurs that is a result of an act of a State employee. Additionally, reports shall be taken involving damage to State property or State equipment.

322.2.5 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.

322.2.6 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 Unit shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (Penal Code § 23685).

322.2.7 ALTERNATE REPORTING FOR VICTIMS
Reports that may be submitted by the public via online or other self-completed reporting processes include:

(a) Lost property.
(b) Misdemeanor thefts of property, other than firearms or materials that threaten public safety, when there is no suspect information, serial number or ability to trace the item.
   1. Misdemeanor thefts of cellular telephones may be reported even though they have a serial number.
(c) Misdemeanor vandalism with no suspect information and no hate crime implications.
(d) Vehicle burglaries with no suspect information or evidence.
(e) Stolen vehicle attempts with no suspect information or evidence.
(f) Annoying telephone calls with no suspect information.
(g) Identity theft without an identifiable suspect.
(h) Online or email fraud solicitations without an identifiable suspect and if the financial loss classifies the crime as a misdemeanor.
(i) Hit-and-run vehicle collisions with no suspect or suspect vehicle.
(j) Supplemental property lists.

Members at the scene of one of the above incidents should not refer the reporting party to an alternate means of reporting without authorization from a supervisor. Members may refer victims to online victim assistance programs (e.g., Federal Communications Commission (FCC) website for identity theft, Internet Crime Complaint Center (IC3) website for computer crimes).

322.3 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.

322.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS
Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for department consistency.

322.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS
County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

322.4 REPORT CORRECTIONS
Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should complete the Report Correction form stating the reasons for rejection. The original report and the correction form should be returned to the reporting employee for correction as soon as practical. It shall be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner.

322.5 REPORT CHANGES OR ALTERATIONS
Reports that have been approved by a supervisor and submitted to the Records Unit 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 Unit may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.
322.6 ELECTRONIC SIGNATURES
The Cal Poly Pomona Police Department has established an electronic signature procedure for use by all employees of the Cal Poly Pomona Police Department. The Operations Lieutenant shall be responsible for maintaining the electronic signature system and ensuring that each employee creates a unique, confidential password for his/her electronic signature.

- Employees may only use their electronic signature for official reports or other official communications.
- Each employee shall be responsible for the security and use of his/her electronic signature and shall promptly notify a supervisor if the electronic signature has or may have been compromised or misused.
Media Relations

323.1 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.

323.2 RESPONSIBILITIES
The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police, however, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Division Lieutenants, Watch Commanders and designated Assistant Vice President of Strategic Communications(s) may prepare and release information to the media in accordance with this policy and the applicable law.

323.2.1 MEDIA REQUEST
Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

(a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative.

(b) In situations involving multiple law enforcement agencies, 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.

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

(a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.

(b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.

1. Reasonable effort should be made to provide 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 department Assistant Vice President of Strategic Communications or other designated spokesperson.

2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

(c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).

(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.

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

323.3.1 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 news 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 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.

323.4 SCOPE OF INFORMATION SUBJECT TO RELEASE
The Department will maintain a daily information log of significant law enforcement activities that shall be made available, upon request, to media representatives through the Watch Commander. This log will generally contain the following information:

(a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals (except confidential informants) 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

(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

(c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law

At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the Watch Commander (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

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 (Government Code § 6250, et seq.).

323.4.1 RESTRICTED INFORMATION
It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained.
Subpoenas and Court Appearances

324.1 PURPOSE AND SCOPE
This policy establishes the guidelines for department members who must appear in court. It will allow the Cal Poly Pomona Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

324.2 POLICY
Cal Poly Pomona Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

324.3 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 department 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)).

324.3.1 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 Office of General Counsel or the prosecutor shall notify his/her immediate supervisor without delay regarding:

(a) Any civil case where the State 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.
Subpoenas and Court Appearances

(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 Cal Poly Pomona Police Department.

(e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Cal Poly Pomona 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.

324.3.2 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.

324.3.3 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.

324.4 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.

324.5 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.

324.6 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.
Subpoenas and Court Appearances

(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.

324.6.1 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.

324.7 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.
Outside Agency Assistance

326.1 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.

326.2 POLICY
It is the policy of the Cal Poly Pomona 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.

326.3 ASSISTING OUTSIDE AGENCIES
Generally, requests for any type of assistance from another agency should be routed to the Watch Commander’s office for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the Watch Commander may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance, however, they shall notify a supervisor of their activity as soon as practicable.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this department will not ordinarily be booked at this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

326.3.1 INITIATED ACTIVITY
Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Cal Poly Pomona Police Department shall notify his/her supervisor or the Watch Commander and the Dispatch Center as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

326.4 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.
Outside Agency Assistance

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

326.5 REPORTING REQUIREMENTS
Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by the Watch Commander.

326.6 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 Administrative Services Division Lieutenant 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 the Dispatch Center and the Watch Commander to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Training and Operations Specialist should maintain documentation that the appropriate members have received the required training.
Registered Offender Information

327.1 PURPOSE AND SCOPE
This policy establishes guidelines by which the Cal Poly Pomona 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.

327.2 POLICY
It is the policy of the Cal Poly Pomona 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.

327.3 REGISTRATION
The Detective Bureau supervisor shall establish a process to reasonably accommodate registration of certain offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome, or difficult for compliance. If it is reasonable to do so, an investigator assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the investigator shall ensure that the registration information is provided to the California Department of Justice (DOJ) in accordance with applicable law (Penal Code § 457.1; Penal Code § 290 et seq.).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register.

327.3.1 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.).

327.4 MONITORING OF REGISTERED OFFENDERS
The Detective Bureau supervisor should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

(a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.

(b) Review of information on the California DOJ website for sex offenders.

(c) Contact with a registrant’s parole or probation officer.
Any discrepancies should be reported to the California DOJ.

The Detective Bureau supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Cal Poly Pomona Police Department personnel, including timely updates regarding new or relocated registrants.

327.5 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 Cal Poly Pomona Police Department’s website. Information on sex registrants placed on the Cal Poly Pomona 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 (Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1), and in compliance with a California Public Records Act (Government Code § 6250-6276.48) request.

327.5.1 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).
327.5.2 RELEASE NOTIFICATIONS

Registrant information that is released should include notification that:

(a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.

(b) The information is provided as a public service and may not be current or accurate.

(c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.

(d) The crime for which a person is convicted may not accurately reflect the level of risk.

(e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

(f) The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).
Major Incident Notification

328.1 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.

328.2 POLICY
The Cal Poly Pomona 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.

328.3 MINIMUM CRITERIA FOR NOTIFICATION
Most situations where the media show a strong interest are also of interest to the Chief of Police and the affected Division Lieutenant. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Homicides
- Traffic accidents with fatalities or serious bodily injury.
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Cal Poly Pomona official
- Arrest of a department employee or prominent Cal Poly Pomona official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths
- Suicide
- Use of force

328.4 WATCH COMMANDER RESPONSIBILITY
The Watch Commander is responsible for making the appropriate notifications. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Watch Commander shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

328.4.1 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 affected Division Lieutenant.
Major Incident Notification

It shall be the responsibility of the Chief of Police or designee to notify the Vice President of Administrative Affairs, the Chief of Staff to the President and or the Vice President of the affected area.

328.4.2 DETECTIVE NOTIFICATION
If the incident requires that a detective respond from home, the appropriate administrator assigned to the investigative unit shall be for approval.

328.4.3 TRAFFIC COLLISION NOTIFICATION
In the event of a traffic fatality or major injury, the Operations Lieutenant or appropriate administrator shall be notified of the incident, and the request for assistance from the Pomona Police Department. The appropriate administrator will then notify the Chief of Police.

328.4.4 ASSISTANT VICE PRESIDENT OF STRATEGIC COMMUNICATIONS (PIO)
As soon as reasonably possible, the Chief of Police or designee will notify Strategic Communications of possible media interest in the incident. Strategic Communication will assist by providing crucial information as quickly as the situation allows, through a variety of sources.

All inquiries regarding the incident shall generally be referred to Strategic Communications for response.
Death Investigation

329.1 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.

329.2 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.

329.2.1 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).
Death Investigation

(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.

329.2.2 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.

329.2.3 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.
Death Investigation

329.2.4 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.

329.2.5 DEATH INVESTIGATION REPORTING
All incidents involving a death shall be documented on the appropriate form.

329.2.6 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.

329.2.7 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)).
Identity Theft

330.1 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.

330.2 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 department processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.
Communications with Persons with Disabilities

331.1 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.

331.1.1 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.

331.2 POLICY
It is the policy of the Cal Poly Pomona 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.

331.3 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 Operations Division Lieutenant or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

(a) Working with the State ADA coordinator regarding the Cal Poly Pomona 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 Lead Dispatcher. 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.

331.4 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.
331.5 INITIAL AND IMMEDIATE CONSIDERATIONS
Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems. Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

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 Cal Poly Pomona 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.

331.6 TYPES OF ASSISTANCE AVAILABLE
Cal Poly Pomona 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.

### 331.7 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.

### 331.8 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).

### 331.9 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.
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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.

331.10 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.

331.11 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.

331.12 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.
331.13  FIELD ENFORCEMENT
Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual’s preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning 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.

331.13.1  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.

331.14  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
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has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. Miranda warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written Miranda warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

331.15 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.

331.16 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.

331.17 COMMUNITY OUTREACH
Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.
331.18 TRAINING
To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

(a) Awareness and understanding of this policy and related procedures, related forms and available resources.

(b) Procedures for accessing qualified interpreters and other available resources.

(c) Working with in-person and telephone interpreters and related equipment.

The Training and Operations Specialist 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 and Operations Specialist 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.

331.18.1 CALL-TAKER TRAINING
Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

(a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.

(b) ASL syntax and accepted abbreviations.

(c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.

(d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all the Dispatch Center members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.
Private Persons Arrests

332.1 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.

332.2 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.

332.3 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.

332.4 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.
Private Persons Arrests

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

332.5 REPORTING REQUIREMENTS
In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a department Private Person’s Arrest form under penalty of perjury.

In addition to the Private Person’s Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.
Anti-Reproductive Rights Crimes Reporting

333.1 PURPOSE AND SCOPE
This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

333.2 DEFINITIONS
Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

(a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant

(b) By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant

(c) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

333.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

(a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an ARRC Data Collection Worksheet (BCIA 8371) in accordance with the instructions contained on such forms.

(b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Investigation Division Lieutenant.

(c) By the tenth day of each month, it shall be the responsibility of the Investigation Division Lieutenant to ensure that a Summary Worksheet (BCIA 8370) is submitted to the Department of Justice Criminal Justice Statistics Center.

1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.
Anti-Reproductive Rights Crimes Reporting

2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).
Limited English Proficiency Services

334.1 PURPOSE AND SCOPE
This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

334.1.1 DEFINITIONS
Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Cal Poly Pomona Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

334.2 POLICY
It is the policy of the Cal Poly Pomona Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

334.3 LEP COORDINATOR
The Chief of Police shall delegate certain responsibilities to an LEP Coordinator. The LEP Coordinator shall be appointed by, and directly responsible to, the Operations Division Lieutenant or the authorized designee.

The responsibilities of the LEP Coordinator include, but are not limited to:
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(a) Coordinating and implementing all aspects of the Cal Poly Pomona Police Department’s LEP services to LEP individuals.

(b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.

(c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Watch Commander and Lead Dispatcher. The list should include information regarding the following:

1. Languages spoken
2. Contact information
3. Availability

(d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.

(e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.

(f) Annually assessing demographic data and other resources, including contracted language services utilization data and community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.

(g) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.

(h) Periodically reviewing efforts of the Department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, new procedures or recommending modifications to this policy.

(i) Receiving and responding to complaints regarding department LEP services.

(j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

334.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:
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(a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.

(b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.

(c) The nature and importance of the contact, program, information or service provided.

(d) The cost of providing LEP assistance and the resources available.

334.5 TYPES OF LEP ASSISTANCE AVAILABLE
Cal Poly Pomona Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

334.6 WRITTEN FORMS AND GUIDELINES
Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP Coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

334.7 AUDIO RECORDINGS
The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

334.8 QUALIFIED BILINGUAL MEMBERS
Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.
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When a qualified bilingual member from this department is not available, personnel from other State departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

334.9 AUTHORIZED INTERPRETERS
Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP Coordinator which demonstrates that their skills and abilities include:

(a) The competence and ability to communicate information accurately in both English and in the target language.

(b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.

(c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(d) Knowledge of the ethical issues involved when acting as a language conduit.

334.9.1 SOURCES OF AUTHORIZED INTERPRETERS
The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other State departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.
334.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE
Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

334.10 CONTACT AND REPORTING
While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

334.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE
The Cal Poly Pomona Police Department will take reasonable steps and will work with the Employee and Organizational Development and Advancement to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

334.11.1 EMERGENCY CALLS TO 9-1-1
Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in the Dispatch Center, the call shall immediately be handled by the qualified bilingual member.
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If a qualified bilingual member is not available or the call-taker is unable to identify the caller’s language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

334.12 FIELD ENFORCEMENT
Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

334.13 INVESTIGATIVE FIELD INTERVIEWS
In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter
Limited English Proficiency Services

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual’s bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

334.14 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

334.15 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee’s health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

334.16 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

334.17 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.
334.18 TRAINING
To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Training and Operations Specialist shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training and Operations Specialist shall maintain records of all LEP training provided, and will retain a copy in each member’s training file in accordance with established records retention schedules.

334.18.1 TRAINING FOR AUTHORIZED INTERPRETERS
All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training and Operations Specialist shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.
Mandatory Employer Notification

335.1 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.

335.2 POLICY
The Cal Poly Pomona Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

335.3 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.

335.3.1 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).

335.3.2 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).

335.3.3 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.
Mandatory Employer Notification

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).

335.3.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR
In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591.5 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor’s Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

335.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES
In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).
Biological Samples

336.1 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.

336.2 POLICY
The Cal Poly Pomona 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.

336.3 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.

336.4 PROCEDURE
When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

336.4.1 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.
336.5 USE OF FORCE TO OBTAIN SAMPLES
If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

(a) The person’s parole or probation officer when applicable.

(b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.

(c) The judge at the person’s next court appearance.

(d) The person’s attorney.

(e) A chaplain.

(f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

(g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

336.5.1 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).

336.5.2 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).

336.6 LEGAL MANDATES AND RELEVANT LAWS
California law provides for the following:

336.6.1 DOCUMENTATION RELATED TO FORCE
The Watch Commander 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.
336.6.2 BLOOD SAMPLES
A blood sample should only be obtained under this policy when:

(a) The California DOJ requests a blood sample and the subject consents, or
(b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care
providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this
purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

336.6.3 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.
Child and Dependent Adult Safety

338.1 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 Adult Abuse policies.

338.2 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 Cal Poly Pomona 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.

338.3 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.
338.3.1 AFTER AN ARREST
Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee’s disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

(a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
   1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.

(b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver’s judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
   1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.

(e) Notify the field supervisor or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver’s arrest and of the arrangements being made for the care of the arrestee’s dependent. The result of such actions should be documented in the associated report.

338.3.2 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)).
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.

338.3.3 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

338.3.4 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.

338.4 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.
Child and Dependent Adult Safety

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

338.5 TRAINING
The Training and Operations Specialist 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).
Service Animals

339.1 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).

339.1.1 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)).

339.2 POLICY
It is the policy of the Cal Poly Pomona 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.

339.3 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.
Service Animals

- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

339.4 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 Cal Poly Pomona Police Department affords to all members of the public (28 CFR 35.136).

339.4.1 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.

339.4.2 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.

339.4.3 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.
339.4.4 COMPLAINTS
When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).
Off-Duty Law Enforcement Actions

340.1 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 Cal Poly Pomona Police Department with respect to taking law enforcement action while off-duty.

340.2 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.

340.3 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 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.

340.4 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.
Off-Duty Law Enforcement Actions

(c) The lack of equipment, such as handcuffs, OC or baton.
(d) The lack of cover.
(e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
(f) Unfamiliarity with the surroundings.
(g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

340.4.1 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 Cal Poly Pomona Police Department officer until acknowledged. Official identification should also be displayed.

340.4.2 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.

340.4.3 CIVILIAN RESPONSIBILITIES
Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

340.4.4 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.

340.5 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.
Gun Violence Restraining Orders

342.1 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).

342.1.1 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).

342.1 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.
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.
Gun Violence Restraining Orders

(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 and Operations Specialist 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).

342.2 POLICY
It is the policy of the Cal Poly Pomona Police Department to petition and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

342.5 GUN VIOLENCE RESTRAINING ORDERS
An officer who reasonably believes a person is a present danger to him/herself or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from his/her 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 orally request a temporary order (Penal Code § 18140).

342.5.1 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.

(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).

342.6 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS
An officer serving any gun violence restraining order shall:

(a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).

(b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).

(c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).

(d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).

(e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).

(f) As soon as practicable, but by the end of his/her shift, submit proof of service to the Records Supervisor for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that
are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

342.6.1 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.

342.7 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.

342.8 RECORDS SUPERVISOR RESPONSIBILITIES
The Records Supervisor is responsible for ensuring:

(a) Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business
day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).

(b) Temporary orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).

(c) Copies of temporary orders are filed with the court as soon as practicable, but no later than three court days, after issuance (Penal Code § 18140).

(d) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Department 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).

342.9 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.

342.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS
The Detective Bureau supervisor 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).

342.11 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).

342.12 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.
Gun Violence Restraining Orders

342.12 TRAINING
The Training and Operations Specialist should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).
Native American Graves Protection and Repatriation

343.1 PURPOSE AND SCOPE
This policy is intended to ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

343.1.1 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.

343.2 POLICY
It is the policy of the Cal Poly Pomona 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.

343.3 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.
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

343.4 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).
Chapter 4 - Patrol Operations
Patrol Function

400.1 PURPOSE AND SCOPE
The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

400.2 POLICY
The Cal Poly Pomona Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

400.3 FUNCTION
Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Cal Poly Pomona. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

(a) Responding to emergency calls for service.
(b) Apprehending criminal offenders.
(c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.
(d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.
(e) Responding to reports of criminal and non-criminal acts.
(f) Responding to routine calls for service, such as public assistance or public safety.
(g) Carrying out crime prevention activities such as residential inspections, business inspections and community presentations.
(h) Carrying out community oriented policing and problem-solving activities including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.
(i) Directing and controlling traffic.

400.4 INFORMATION SHARING
To the extent feasible, all information relevant to the mission of the Department should be shared among all divisions and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily briefings and to attend briefings of other divisions or specialized units.
Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and divisions.

400.5  CROWDS, EVENTS AND GATHERINGS
Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

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

Generally, officers should consider seeking compliance through advisements and warnings for minor violations and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws, such as Penal Code 602.1 (obstructing or intimidating business operators), when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

400.5.1  CAMPUS LIAISON
A college or university in this jurisdiction should designate a liaison between our department and students exercising rights guaranteed by the First Amendment to the United States Constitution, a similar provision of the California Constitution or both (Education Code § 66303). The designated department staff member will work with this liaison regarding relevant issues, scheduled events, training and crowd control.
Bias-Based Policing

401.1 PURPOSE AND SCOPE
This policy provides guidance to department members that affirms the Cal Poly Pomona Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

401.1.1 DEFINITIONS
Definitions related to this policy include:

**Bias-based policing** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

401.2 POLICY
The Cal Poly Pomona Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

401.3 BIAS-BASED POLICING PROHIBITED
Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

401.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT
Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

(a) In compiling personal information about a person’s religious belief, practice, affiliation, national origin or ethnicity.

(b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.
401.4 MEMBER RESPONSIBILITIES
Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

401.4.1 REASON FOR CONTACT
Officers contacting a person shall be prepared to articulate sufficient reason for the contact.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

401.4.2 REPORTING OF STOPS
Unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the Cal Poly Pomona Police Department is the primary agency, the Cal Poly Pomona Police Department officer shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the officer’s shift or as soon as practicable (11 CCR 999.227).

401.5 SUPERVISOR RESPONSIBILITIES
Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
   1. Supervisors should document these discussions, in the prescribed manner.

(b) Supervisors should periodically review MAV recordings, portable audio/video recordings, Mobile Digital Computer (MDC) data and any other available resource used to document contact between officers and the public to ensure compliance with the policy.
   1. Supervisors should document these periodic reviews.
   2. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
Bias-Based Policing

(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

401.6 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE
The Internal Affairs Unit Manager shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the Records Supervisor for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Unit Policy.

Supervisors should ensure that data stop reports are provided to the Records Supervisor for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

401.7 ADMINISTRATION
Each year, the Operations Division Lieutenant should review the efforts of the Department to provide fair and objective policing and submit an overview, including public concerns and complaints, to the Chief of Police.

This report should not contain any identifying information about any specific complaint, member of the public or officers. It should be reviewed by the Chief of Police to identify any changes in training or operations that should be made to improve service.

Supervisors should review the report and discuss the results with those they are assigned to supervise.

401.8 TRAINING
Training on fair and objective policing and review of this policy should be conducted as directed by the Personnel and Training Unit.

(a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.

(b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

(c) Each sworn member of this department who received initial bias-based policing training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).
Briefing Training

402.1 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 that have been approved.

(d) Reviewing recent incidents for training purposes

(e) Providing training on a variety of subjects

402.2 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.

402.3 RETENTION OF BRIEFING TRAINING RECORDS
Briefing training materials and a curriculum or summary shall be forwarded to the Training and Operations Specialist for inclusion in training records, as appropriate.
Crime and Disaster Scene Integrity

403.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidance in handling a major crime or disaster.

403.2 POLICY
It is the policy of the Cal Poly Pomona 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.

403.3 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.

403.4 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.
403.5 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 persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

403.5.1 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.

403.6 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).
Body Worn Camera

404.1 PURPOSE
The purpose of this policy is to establish guidelines for the use of Body Worn Cameras (BWC) by officers working for The California State University Campus Police Departments while on-duty and during work related contacts with the public in accordance with the law.

The California State University (“CSU”) has adopted the following policy in order to create statewide uniformity and procedures to be complied with by all 23 CSU campuses.

404.2 OBJECTIVES
CSU has adopted the use of the BWC to accomplish several objectives. The primary objectives are as follows:

(a) Collect evidence for use in criminal investigations and prosecutions;
(b) Deterring criminal activity and uncooperative behavior during police-public interaction;
(c) Assist officers with completing reports and providing testimony in court;
(d) Promote accountability;
(e) Assist in resolving complaints against officers including false allegations by members of the public; and
(f) Provide additional information for officer evaluations, training and continuous improvement.

BWC recordings provide additional information regarding investigative or enforcement contact with a member of the public. BWC recordings, however, provide limited perspective of the encounter and must be considered with all other available evidence, such as witness statements, officer interviews, forensic analysis and documentary evidence, when evaluating the appropriateness of the officer’s actions.

404.3 POLICY
The Body Worn Camera, hereinafter referred to as BWC, is an audio and video capturing system that is attached to the outside, upper body of an officer’s uniform, facing forward to make video and audio recording. It shall be used to document incidents that occur in official duties of CSU peace officers. The following shall be the policy when using the BWC:

(a) On-duty uniformed officers responding to calls for service or taking enforcement action make every effort to activate the BWC to record contact with citizens in the performance of their official duties.

(b) Peace officers shall make every effort to immediately activate their body camera upon being dispatched Code-3 or any call that may be perceived as a critical incident.
(Part 1 crime). The BWC shall remain activated until the contact, incident or event is completed to ensure the integrity of the recording. Except in situations that meet section V.d.

(c) The Chief of Police at each campus shall determine how the BWC shall be worn by the officers within their Department.

(d) If an officer fails to activate the BWC, fails to record the entire contact, or interrupts the recording, the officer shall document why the recording was not made, was interrupted or was terminated for reasons other than described in section V.d., via a memo to the officer’s watch commander.

(e) Officers shall document in police reports whether a BWC was utilized. (e.g. “My Dept. issued BWC was activated during the contact, detention, arrest, etc.)

(f) For the purposes of this policy, it shall be presumed that any individual contacted by a uniformed officer wearing a conspicuously mounted body camera will have knowledge that such contact is being recorded. A uniformed officer shall give an affirmative answer if asked by a citizen if they are being recorded during the course of an official contact.

(g) BWC equipment will be issued to all peace officers at the rank of sergeant and below. Uniformed officers who are assigned BWC equipment must use the equipment unless otherwise authorized by Command Staff. Officers shall use only BWCs issued or approved by their Department.

(h) The BWC equipment and all data, images, video, and metadata captured, recorded, or otherwise produced by the equipment is the sole property of the officer’s home campus Police Department.

(i) Police personnel who are assigned BWCs shall complete a training program to ensure proper use and operations of the equipment prior to deployment in field operations. Future training may be periodically required to ensure the continued effective use and operation of the equipment, proper calibration, performance, and to incorporate changes, updates, or other revisions in policy and equipment.

(j) Prior to going into service, uniformed officers shall confirm that the BWC is working and recording properly. If the BWC is not working or malfunctions at any time, the officer shall promptly notify their supervisor and obtain a functioning BWC.

(k) On-duty uniformed officers shall not be held financially responsible for damaged, broken or inoperable BWC equipment unless abuse or negligence of the equipment is found to be the cause. Any equipment malfunctions shall be brought to the attention of the officer’s on-duty supervisor via a memorandum outlining the circumstances that led to the affected BWC so a replacement unit may be procured.

(l) Officers shall not edit, alter, erase, duplicate, copy, share or otherwise distribute in any manner BWC recordings without prior written authorization and approval from the Chief of Police or designee.

(m) Requests for deletions of recordings or any portion thereof must be submitted in writing and approved by the Chief of Police or designee in accordance with CSU record retention policy.
(n) An on-duty officer may remove or deactivate the BWC if on an extended break, or in their personal residence, restroom, or locker room in order to eliminate the possibility of inadvertent activation.

404.4 RESTRICTED USES OF BWC

(a) At no time should an officer jeopardize their safety in order to activate a BWC, recorder or change the recording functions.

(b) No member of this Department may surreptitiously record a conversation of any other member of this Department with the BWC or any other recording device when a reasonable expectation of privacy exists and without the expressed written knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer’s right to openly record any interrogation pursuant to Government Code 3303 (g).

(c) There may be times when officer’s should be sensitive to a situation and use discretion on their decision to record contacts while handling certain calls for service. Some examples include but are not limited to: Interviewing of sexual assault victims, recording in Hospitals when other patients not related to a Police incident could be recorded or at the request of Hospital staff members.

(d) In certain situations, where police tactics or confidentiality may jeopardize officer safety or case sensitive information, activations of the BWC may not be warranted. These situations include but are not limited to: Detective Bureau investigations, Gang Intelligence operations, tactical operations, undercover operations and interviews with criminal/confidential informants. The reason as to why a recording was paused or not made at all is to be documented in the police report.

(e) An officer, who is investigating a possible explosive device and is in close proximity of the device, shall turn off their camera.

(f) Officers are prohibited from utilizing department issued BWCs and recording media for personal use. Any unauthorized use of the BWCs by department personnel may result in disciplinary action.

404.5 STORAGE AND REVIEW OF MEDIA FILES

(a) All files should be securely downloaded periodically and no later than the end of each patrol shift. If an officer is unable to download at the end of their, the officer shall ask their on-duty supervisor if it is acceptable to download the files at the beginning of the officer’s next shift. Each file shall contain information related to the date, BWC identifier, and assigned officer.

(b) Files should be securely stored in accordance with CSU Records and Retention Policy. The files should be stored no longer than useful for the purposes of training or for use in an investigation or prosecution. In capital punishment prosecutions, recordings shall be kept until the offender is no longer under control of a criminal justice system.

(c) Officers shall have the right to review their recordings and use the recordings as a resource for preparing to write police reports, to participate in an internal affairs
interview and/or to provide a statement regarding a critical incident. This section does not apply to a public safety statement regarding a critical incident. Officers should not use the fact that a recording was made as a reason to write a less detailed report.

(d) All images and sounds recorded by the BWC are the exclusive property of the Department. Accessing, copying or releasing files for non-law enforcement purposes is strictly prohibited and may result in disciplinary action.

(e) Command staff retains the authority to audit the storage system at random in order to ensure authorized users are accessing the data for legitimate and authorized purposes.

(f) Command staff retains the authority to randomly view officer recordings for the purpose of validity testing. The random viewing will be conducted by the Operations Captain or Lieutenant. The method of random selection will be agreed upon by the SUPA Representative and Chief of Police. One recording per officer may be selected each month and reviewed. Any system deficiencies will be documented and remedied. Any performance issue will be discussed with the officer. Violations of policy will be reviewed using the campus’ procedures for conducting Internal Affairs Investigations.

(g) Specific and targeted audits for cause are not allowed unless well-founded suspicion has been documented specifically naming an officer or officers who are allegedly violating policy or performance standards. Command Staff shall be notified and the campus’ procedures for conducting Internal Affairs Investigations will guide the review.

(h) Video and/or audio recordings may be played for the purposes of training with written approval from the Chief of Police or their designee. If an involved officer objects to the playing of an audio/video recording, their objection will be submitted to the Chief of Police or their designee to determine if the training value outweighs the officer’s objection to have others review the audio/video file.

(i) In no event shall any recording be used or reviewed for the purpose of officer ridicule or embarrassing an employee.

(j) All Public Records Act Requests will be processed in accordance with applicable law

(k) Upon Command Staff approval, recorded files may be reviewed by any officer of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(l) Pursuant to lawful process, recorded files may be reviewed or provided to court personnel who are authorized to review evidence in a related case

(m) Media personnel with permission of the Chief of Police or the authorized designee may review or be provided recorded files.

(n) All recordings will be reviewed by a member of the Command Staff prior to public release. 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. Every effort to protect the identities of involved parties in the video will be conducted to the extent allowed by law.
Ride-Along Policy

406.1 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.

406.1.1 ELIGIBILITY
The Cal Poly Pomona Police Department Ride-Along Program is offered to residents, students and those employed within the State. 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

406.1.2 AVAILABILITY
The Ride-Along Program is available on most days of the week, with certain exceptions. The ride-along times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief of Police, Division Lieutenant, or Watch Commander.

406.2 PROCEDURE TO REQUEST A RIDE-ALONG
Generally, ride-along requests will be scheduled by the Watch Commander. The participant will complete a ride-along waiver form. Information requested will include a valid ID or California driver’s license, address, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the Ride-Along Form.

The Watch Commander will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective Watch Commander as soon as possible for his/her scheduling considerations.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

406.2.1 PROGRAM REQUIREMENTS
Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Cadets, Explorers, RSVP, Chaplains, Reserves, police applicants, and all others with approval of the Watch Commander.
Ride-Along Policy

An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the officer's vehicle at a given time.

Ride-along requirements for police cadets are covered in the Police Cadets Policy.

406.2.2 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.

406.2.3 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.

406.2.4 STUDENT ASSISTANT RIDE-ALONGS
(a) Student Assistants assigned to the UPD must obtain approval for ride-alongs, from their assigned HEERA manager, at least 10 business days in advance.
(b) Assigned HEERA manager shall notify the on-duty Watch Commander (desired shift) of the request, for final approval.

406.2.5 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 Cal Poly Pomona Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

406.3 OFFICER'S RESPONSIBILITY
The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another police unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

The Watch Commander is responsible for maintaining and scheduling ride-alongs.
406.4 CONTROL OF RIDE-ALONG
The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

(a) The ride-along will follow the directions of the officer
(b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment
(c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer’s duties
(d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety
(e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen
(f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person
Hazardous Material Response

407.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with 8 CCR § 5194, the following is to be the policy of this department.

407.1.1 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.

407.2 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 Code § 25354.5).

407.3 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to the Commanding Officer. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.
Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report.

407.3.1 SUPERVISOR RESPONSIBILITY
When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the Fire Department.
Response to Bomb Calls

409.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidelines to assist members of the Cal Poly Pomona 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.

409.2 POLICY
It is the policy of the Cal Poly Pomona Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

409.3 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.

409.4 GOVERNMENT FACILITY OR PROPERTY
A bomb threat targeting a government facility may require a different response based on the government agency.

409.4.1 CAL POLY POMONA POLICE DEPARTMENT FACILITY
If the bomb threat is against the Cal Poly Pomona 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.

409.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY
If the bomb threat is against a county or municipal facility within the jurisdiction of the Cal Poly Pomona 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.
409.4.3 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.

409.5 PRIVATE FACILITY OR PROPERTY
When a member of this department receives notification of a bomb threat at a location in the State of Cal Poly Pomona, 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.

409.5.1 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.
Response to Bomb Calls

(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.

409.6 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.
Response to Bomb Calls

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.

409.7 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.

409.7.1 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.

409.7.2 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
Response to Bomb Calls

409.7.3 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.

409.7.4 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.
Crisis Intervention Incidents

410.1 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.

410.1.1 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.

410.2 POLICY
The Cal Poly Pomona 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.

410.3 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.

410.4  COORDINATION WITH MENTAL HEALTH PROFESSIONALS
The Chief of Police should designate an appropriate Division Lieutenant 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.

410.5  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.

410.6 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.

410.7 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/attempt, 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.
410.8 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.
(b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
(c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
(d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
(e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Lieutenant.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

410.9 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.

410.9.1 DIVERSION
Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

410.10 CIVILIAN INTERACTION WITH PEOPLE IN CRISIS
Civilian members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

(a) Members should treat all individuals equally and with dignity and respect.
(b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
(c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person’s behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person
Crisis Intervention Incidents

may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

410.11 EVALUATION
The Division Lieutenant designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

410.12 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).
Mental Illness Commitments

411.1 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).

411.2 POLICY
It is the policy of the Cal Poly Pomona Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

411.3 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

411.3.1 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.

411.4 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:
Mental Illness Commitments

(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.

411.4.1 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).

411.5 TRANSPORTATION
When transporting any individual for a 5150 commitment, the transporting officer should have the Dispatch Center 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.

411.6 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
Mental Illness Commitments

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.

411.7 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.

411.7.1 ADVISEMENT
The officer taking a person into custody for evaluation shall advise the person of:

(a) The officer’s name and agency.
(b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
(c) The name of the facility to which the person is being taken.
(d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

411.8 CRIMINAL OFFENSES
Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

(a) Arrest the individual when there is probable cause to do so.
Mental Illness Commitments

(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.

411.9 FIREARMS AND OTHER WEAPONS
Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and 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).

411.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS
Whenever the handling officer has cause to believe that the future return of any confiscated weapon might endanger the person or others, the officer shall detail those facts and circumstances in a report. The report shall be forwarded to the Detective Bureau, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Department 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.
Mental Illness Commitments

411.10 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.
Cite and Release Policy

412.1 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.

412.2 POLICY
It is the policy of the Cal Poly Pomona 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.

412.3 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 persons 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 he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

412.3.1 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.

412.3.2 RELEASE AFTER BOOKING
In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail. All bookings shall be approved by the Watch Commander or the authorized designee.

412.4 NON-RELEASE
412.4.1 DISQUALIFYING OFFENSES
An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

(a) Misdemeanor domestic battery (Penal Code § 243(e)(1))
(b) Felony domestic battery (Penal Code § 273.5)
(c) Serious or violent felonies (Penal Code § 1270.1(a)(1))
(d) Felony intimidation of witnesses and victims (Penal Code § 136.1)
(e) Rape of a spouse (Penal Code § 262)
(f) 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)
(g) Stalking (Penal Code § 646.9)
(h) 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)

412.4.2 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 he/she could be a danger to him/herself 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 his/her own safety
   1. The Cal Poly Pomona Police Department shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).

(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) The person has been cited, arrested, or convicted for theft from a store or vehicle in the previous six months, or there is probable cause to believe the person is guilty of committing organized retail theft, as defined in Penal Code § 490.4(a).
(e) There are one or more outstanding arrest warrants for the person or failures to appear in court on previous misdemeanor citations that have not been resolved (see Misdemeanor Warrants elsewhere in this policy).

(f) The person could not provide satisfactory evidence of personal identification.

1. If a person released on citation does not have satisfactory identification in his/her possession, a right thumbprint or fingerprint should be obtained on the citation form.

(g) 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.

(h) 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.

(i) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.

(j) 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. An arrest warrant or failure to appear that is currently pending shall constitute reason to believe that the person will not appear. Other reasons may include:

(a) Previous failure to appear is on record

(b) The person lacks ties to the area, such as a residence, job, or family

(c) Unusual circumstances lead the officer responsible for the release of prisoners to conclude that the suspect should be held for further investigation

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 Unit.

### 412.5 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 him/herself 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 his/her own safety.

(g) The person has other ineligible charges pending against him/her.

(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.

412.6 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 Cal Poly Pomona State codes

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.

412.7 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 he/she feels the situation should be documented more thoroughly in a case report.
Foreign Diplomatic and Consular Representatives

413.1 PURPOSE AND SCOPE
This policy provides guidelines to ensure that members of the Cal Poly Pomona Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

413.2 POLICY
The Cal Poly Pomona 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.

413.3 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.
413.4 ENFORCEMENT
If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

(a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.

(b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.

(c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.

1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.

(d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:

1. Diplomatic-level staff of missions to international organizations and recognized family members
2. Diplomatic agents and recognized family members
3. Members of administrative and technical staff of a diplomatic mission and recognized family members
4. Career consular officers, unless the person is the subject of a felony warrant

(e) The following persons may generally be detained and arrested:

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.
413.5 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.

413.6 DIPLOMATIC IMMUNITY TABLE
Reference table on diplomatic immunity:

<table>
<thead>
<tr>
<th>Category</th>
<th>Arrested or Detained</th>
<th>Enter Residence Subject to Ordinary Procedures</th>
<th>Issued Traffic Citation</th>
<th>Subpoenaed as Witness</th>
<th>Prosecuted</th>
<th>Recognized Family Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diplomatic Agent</td>
<td>No (note (b))</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Same as sponsor (full immunity &amp; inviolability)</td>
</tr>
<tr>
<td>Member of Admin and Tech Staff</td>
<td>No (note (b))</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Same as sponsor (full immunity &amp; inviolability)</td>
</tr>
<tr>
<td>Service Staff</td>
<td>Yes (note (a))</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No for official acts. Yes otherwise (note (a))</td>
<td>No immunity or inviolability (note (a))</td>
</tr>
<tr>
<td>Career Consul Officer</td>
<td>Yes if for a felony and pursuant to a warrant (note (a))</td>
<td>Yes (note (d))</td>
<td>Yes</td>
<td>No for official acts. Testimony may not be compelled in any case</td>
<td>No for official acts. Yes otherwise (note (a))</td>
<td>No immunity or inviolability</td>
</tr>
<tr>
<td>Honorable Consul Officer</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No for official acts. Yes otherwise.</td>
<td>No for official acts. Yes otherwise</td>
<td>No immunity or inviolability</td>
</tr>
<tr>
<td>Consulate Employees</td>
<td>Yes (note (a))</td>
<td>Yes</td>
<td>Yes</td>
<td>No for official acts. Yes otherwise.</td>
<td>No for official acts. Yes otherwise</td>
<td>No immunity or inviolability (note (a))</td>
</tr>
<tr>
<td>Int’l Org Staff (note (b))</td>
<td>Yes (note (c))</td>
<td>Yes (note (c))</td>
<td>Yes</td>
<td>Yes (note (c))</td>
<td>No for official acts. Yes otherwise (note (c))</td>
<td>No immunity or inviolability</td>
</tr>
</tbody>
</table>
Foreign Diplomatic and Consular Representatives

<table>
<thead>
<tr>
<th>Diplomatic-Level Staff of Missions to Int’l Org</th>
<th>No (note (b))</th>
<th>No</th>
<th>Yes</th>
<th>No</th>
<th>No</th>
<th>Same as sponsor (full immunity &amp; inviolability)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Support Staff of Missions to Int’l Orgs</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No for official acts Yes otherwise</td>
<td>No immunity or inviolability</td>
</tr>
</tbody>
</table>

Notes for diplomatic immunity table:

(a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.

(b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.

(c) A small number of senior officers are entitled to be treated identically to diplomatic agents.

(d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.
Immigration Violations

415.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidelines to members of the Cal Poly Pomona Police Department relating to immigration and interacting with federal immigration officials.

415.1.1 DEFINITIONS
The following definitions apply to this policy (Government Code § 7284.4):

Criminal immigration violation - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

Immigration enforcement - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

Judicial warrant - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

415.2 POLICY
It is the policy of the Cal Poly Pomona 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.

415.3 VICTIMS AND WITNESSES
To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or California constitutions.

415.4 IMMIGRATION INQUIRIES PROHIBITED
Officers shall not inquire into an individual’s immigration status for immigration enforcement purposes (Government Code § 7284.6).

415.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)
Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).
Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual’s record (Government Code § 15160).

### 415.5 DETENTIONS AND ARRESTS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual’s status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An officer shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

#### 415.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

(a) Transfer the person to federal authorities.

(b) Transfer the person to jail.

### 415.6 FEDERAL REQUESTS FOR ASSISTANCE

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

### 415.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):
(a) Sending information to, or requesting or receiving such information from federal immigration officials
(b) Maintaining such information in department records
(c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

415.7.1 IMMIGRATION DETAINERS
No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

(a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).
(b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.
(c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
(d) The individual is a current registrant on the California Sex and Arson Registry.
(e) The individual is identified by the U.S. Department of Homeland Security’s Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

415.7.2 NOTICE TO INDIVIDUALS
Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with information as to whether the Cal Poly Pomona Police Department intends to comply with the request (Government Code § 7283.1).

If the Cal Poly Pomona Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

415.7.3 ICE INTERVIEWS
Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Cal Poly Pomona 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
Immigration Violations

attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

415.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES
Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

(a) Transfer is authorized by a judicial warrant or judicial probable cause determination.

(b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(c) The individual is a current registrant on the California Sex and Arson Registry.

(d) The individual is identified by the U.S. Department of Homeland Security’s Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

415.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE
The Detective Bureau supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Supervisor for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Unit Policy).

415.8 U VISA AND T VISA NONIMMIGRANT STATUS
Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Detective Bureau supervisor assigned to oversee the handling of any related case. The Detective Bureau supervisor should:

(a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.

(b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.

(c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

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
**Immigration Violations**

B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).

(d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

(e) Inform the victim liaison of any requests and their status.

415.8.1 **TIME FRAMES FOR COMPLETION**

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

415.8.1 **POLICE REPORTS**

Upon request, an officer or supervisor should provide a victim or authorized representative with a copy of the report filed by the victim within seven days of the request (Penal Code § 679.10).

415.8.4 **REPORTING TO LEGISLATURE**

The Detective Bureau supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

415.9 **TRAINING**

The Training and Operations Specialist should ensure that all appropriate members receive training on immigration issues.

Training should include:

(a) Identifying civil versus criminal immigration violations.

(b) Factors that may be considered in determining whether a criminal immigration violation has been committed.

(c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).
Aircraft Accidents

417.1 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.

417.1.1 DEFINITIONS
Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/ dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

417.2 POLICY
It is the policy of the Cal Poly Pomona Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

417.3 ARRIVAL AT SCENE
Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

(a) Protect persons and property.

(b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.

(c) Preserve ground scars and marks made by the aircraft.

(d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.

(e) Maintain a record of persons who enter the accident site.

(f) Consider implementation of an Incident Command System (ICS).

417.4 INJURIES AND CASUALTIES
Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.
417.5 NOTIFICATIONS
When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

(a) Fire department
(b) Appropriate airport tower
(c) Emergency medical services (EMS)

417.6 CONTROLLING ACCESS AND SCENE AUTHORITY
Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

(a) FAA.
(b) Fire department, EMS or other assisting law enforcement agencies.
(c) 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.

417.7 DANGEROUS MATERIALS
Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

(a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
(b) Pressure vessels, compressed gas bottles, accumulators and tires.
Aircraft Accidents

(c) Fluids, batteries, flares and igniters.
(d) Evacuation chutes, ballistic parachute systems and composite materials.

417.8 DOCUMENTATION
All aircraft accidents occurring within the State of Cal Poly Pomona 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 UPD members deployed to assist; other State resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

417.8.1 WRECKAGE
When reasonably safe, members should:
(a) Obtain the aircraft registration number (N number) and note the type of aircraft.
(b) Attempt to ascertain the number of casualties.
(c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
   1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
(d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
(e) Acquire copies of any recordings from security cameras that may have captured the incident.

417.8.2 WITNESSES
Members tasked with contacting witnesses should obtain:
(a) The location of the witness at the time of his/her observation relative to the accident site.
(b) A detailed description of what was observed or heard.
(c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
(d) The names of all persons reporting the accident, even if not yet interviewed.
(e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

417.9 MEDIA RELATIONS
The Assistant Vice President of Strategic Communications (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
Aircraft Accidents

accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims’ names. The PIO should coordinate with other involved entities before the release of information.
Field Training Officer Program

418.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer’s transition from the academic setting to the actual performance of general law enforcement duties of the Cal Poly Pomona Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive, and professional manner.

418.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training, and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

418.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

(a) Desire to be an FTO
(b) Demonstrated ability as a positive role model
(c) Participate and pass an internal oral interview selection process
(d) Evaluation by supervisors and current FTOs
(e) Possess a POST Basic certificate

418.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer’s Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

418.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Operations Division Lieutenant 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
Field Training Officer Program

(b) Conduct FTO meetings
(c) Maintain and ensure FTO/trainee performance evaluations are completed
(d) Maintain, update, and issue the Field Training Manual to each trainee
(e) Monitor individual FTO performance
(f) Monitor overall FTO Program
(g) Maintain liaison with FTO coordinators of other agencies
(h) Maintain liaison with academy staff on recruit performance during the academy
(i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator’s Course within one year of appointment to this position (11 CCR 1004(c)).

418.4 TRAINEE DEFINED
Any entry level or lateral police officer newly appointed to the Cal Poly Pomona Police Department who has successfully completed a POST approved Basic Academy.

418.5 REQUIRED TRAINING
Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 10 weeks (11 CCR 1004; 11 CCR 1005).

The training period for a lateral officer may be modified depending on the trainee’s demonstrated performance and level of experience. A lateral officer may be exempt from the Field Training Program requirement if the officer qualifies for an exemption as provided in 11 CCR 1005(a)(B).

To the extent practicable, entry level and lateral officers should be assigned to a variety of Field Training Officers, shifts, and geographical areas during their Field Training Program.

418.5.1 FIELD TRAINING MANUAL
Each new officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Cal Poly Pomona 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 Cal Poly Pomona Police Department.

418.6 EVALUATIONS
Evaluations are an important component of the training process and shall be completed as outlined below.

418.6.1 FIELD TRAINING OFFICER
The FTO will be responsible for the following:
Field Training Officer Program

(a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.

(b) Review the Daily Trainee Performance Evaluations with the trainee each day.

(c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.

(d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

418.6.2 IMMEDIATE SUPERVISOR
The immediate supervisor shall review and approve the Daily Trainee Performance Evaluations and forward them to the Field Training Administrator.

418.6.3 FIELD TRAINING ADMINISTRATOR
The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO through his/her immediate supervisor.

418.6.4 TRAINEE
At the completion of the Field Training Program, the trainee shall submit a confidential performance evaluation on each of their FTOs and on the Field Training Program.

418.7 DOCUMENTATION
All documentation of the Field Training Program will be retained in the officer’s training files and will consist of the following:

(a) Daily Trainee Performance Evaluations

(b) End-of-phase evaluations

(c) A Certificate of Completion certifying that the trainee has successfully completed the required number of hours of field training
Obtaining Air Support

419.1 PURPOSE AND SCOPE
The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

419.2 REQUEST FOR HELICOPTER ASSISTANCE
If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

419.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY
After consideration and approval of the request for a helicopter, the Watch Commander, or his/her designee, will call the closest agency having helicopter support available. The Watch Commander on duty will apprise that agency of the specific details of the incident prompting the request.

419.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED
Police helicopters may be requested under any of the following conditions:

(a) When the helicopter is activated under existing mutual aid agreements
(b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard
(c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community
(d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard
(e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for officers on the ground.
Contacts and Temporary Detentions

420.1 PURPOSE AND SCOPE
The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

420.1.1 DEFINITIONS
Definitions related to this policy include:

Consensual encounter - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual’s identity and resolving the officer’s suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person’s freedom of movement.

420.2 POLICY
The Cal Poly Pomona 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.
420.3 FIELD INTERVIEWS
Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer’s suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Cal Poly Pomona Police Department to strengthen community involvement, community awareness, and problem identification.

420.3.1 INITIATING A FIELD INTERVIEW
When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual’s:

(a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
(b) Actions suggesting that he/she is engaged in a criminal activity
(c) Presence in an area at an inappropriate hour of the day or night
(d) Presence in a particular area is suspicious
(e) Carrying of suspicious objects or items
(f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
(g) Location in proximate time and place to an alleged crime
(h) Physical description or clothing worn that matches a suspect in a recent crime
(i) Prior criminal record or involvement in criminal activity as known by the officer

420.4 PAT-DOWN SEARCHES
Once a valid stop has been made, and consistent with the officer’s training and experience, an officer may pat a suspect’s outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
(b) Where more than one suspect must be handled by a single officer.
(c) The hour of the day and the location or neighborhood where the stop takes place.
(d) Prior knowledge of the suspect’s use of force and/or propensity to carry weapons.
(e) The actions and demeanor of the suspect.
Contacts and Temporary Detentions

(f) Visual indications which suggest that the suspect is carrying a firearm or other weapon. Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

420.5 FIELD PHOTOGRAPHS
All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

420.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT
Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should have the individual read and sign the appropriate form accompanying the photograph if applicable.

The digital photograph should then be attached to the appropriate incident number in CAD with subject information.

420.5.1 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 Unit.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

420.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT
Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal
conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the officer’s reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

420.5.4 SUPERVISOR RESPONSIBILITIES
While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

420.6 WITNESS IDENTIFICATION AND INTERVIEWS
Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

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

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Cal Poly Pomona Police Department members.
   1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.
Criminal Organizations

421.1 PURPOSE AND SCOPE
The purpose of this policy is to ensure that the Cal Poly Pomona Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

421.1.1 DEFINITIONS
Definitions related to this policy include:

Criminal intelligence system - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

421.2 POLICY
The Cal Poly Pomona 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.

421.3 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.

421.3.1 SYSTEM ENTRIES
It is the designated supervisor’s responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, 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 Unit. Any
supporting documentation for an entry shall be retained by the Records Unit 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 Unit are appropriately marked as intelligence information. The Records Supervisor may not purge such documents without the approval of the designated supervisor.

421.3.2 GANG DATABASES
The Chief of Police may approve participation by the gang unit in a shared criminal gang intelligence database, such as CALGANG®. Members must obtain the requisite training before accessing any such database (11 CCR 751.6).

It is the gang unit supervisor’s responsibility to determine whether any report or FI contains information that would qualify for entry into the database. Prior to designating any person as a suspected gang member, associate, or affiliate in a shared gang database; or submitting a document to the Attorney General’s office for the purpose of designating a person in a shared gang database; or otherwise identifying the person in a shared gang database, the gang unit supervisor shall provide written notice to the person and, if the person is under the age of 18, to his/her parent or guardian of the designation and the basis for the designation, unless providing that notification would compromise an active criminal investigation or compromise the health or safety of a minor. Notice shall also describe the process to contest the designation (Penal Code § 186.34).

The person, an attorney working on his/her behalf, or his/her parent or guardian (if the person is under 18 years of age) may request, in writing, information as to whether the person is designated as a suspected gang member, associate, or affiliate in a shared gang database accessible by the Department, the basis for that designation, and the name of the agency that made the designation. The Department shall respond to a valid request in writing within 30 days, and shall provide the information requested unless doing so would compromise an active investigation or compromise the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest the designation by submitting written documentation, which shall be reviewed by the gang unit supervisor. If it is determined that the person is not a suspected gang member, associate, or affiliate, the person shall be removed from the database. The person and the parent or guardian shall be provided written verification of the department’s decision within 30 days of receipt of the written documentation contesting the designation and shall include the reason for a denial when applicable (Penal Code § 186.34).

The gang unit supervisor should forward reports or FIs to the Records Unit 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 Unit supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

421.4 TEMPORARY INFORMATION FILE
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.

421.4.1 FILE CONTENTS
A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

(a) Must only be included upon documented authorization of the responsible department supervisor.

(b) Should not be originals that would ordinarily be retained by the Records Unit or Property Unit, but should be copies of, or references to, retained documents such as copies of reports, FI forms, the Dispatch Center records or booking forms.

(c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.

(d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

421.4.2 FILE REVIEW AND PURGING
The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

421.5 INFORMATION RECOGNITION
Department 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:
Criminal Organizations

(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 and Operations Specialist to train members to identify information that may be particularly relevant for inclusion.

421.6 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.

421.7 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.

(c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.
421.8 TRAINING
The Training and Operations Specialist 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.

421.8.1 SHARED GANG DATABASE TRAINING
The Training and Operations Specialist 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).
Watch Commanders

422.1 PURPOSE AND SCOPE
Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with department policies, procedures, practices, functions and objectives. To accomplish this goal, a Sergeant heads each watch.

422.2 DESIGNATION AS ACTING WATCH COMMANDER
When a Sergeant is unavailable for duty as Watch Commander, in most instances the senior qualified corporal shall be designated as acting Watch Commander. This policy does not preclude designating a less senior corporal or senior officer as an acting Watch Commander when operational needs require or training permits.
Public Recording of Law Enforcement Activity

425.1 PURPOSE AND SCOPE
This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

425.2 POLICY
The Cal Poly Pomona Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

425.3 RECORDING LAW ENFORCEMENT ACTIVITY
Members of the public who wish to record law enforcement activities are limited only in certain aspects.

(a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).

(b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
1. Tampering with a witness or suspect.
2. Inciting others to violate the law.
3. Being so close to the activity as to present a clear safety hazard to the officers.
4. Being so close to the activity as to interfere with an officer’s effective communication with a suspect or witness.

(c) The individual may not present an undue safety risk to the officers, him/herself or others.

425.4 OFFICER RESPONSE
Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.
Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

425.5 SUPERVISOR RESPONSIBILITIES
A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

(a) Request any additional assistance as needed to ensure a safe environment.

(b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.

(c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.

(d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.

(e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

425.6 SEIZING RECORDINGS AS EVIDENCE
Officers should not seize recording devices or media unless (42 USC § 2000aa):

(a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.

1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.

(b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.

(c) The person consents.

1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
Public Recording of Law Enforcement Activity

2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.
Medical Marijuana

426.1 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.

426.1.1 DEFINITIONS
Definitions related to this policy include:

**Cardholder** - A person issued a current identification card.

**Compassionate Use Act (CUA)** (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

**Identification card** - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

**Medical marijuana** - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

**Medical Marijuana Program (MMP)** (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

**Patient** - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

**Primary caregiver** - A person designated by the patient, who has consistently assumed responsibility for the patient’s housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

**Statutory amount** - No more than 8 ounces of dried, mature, processed female marijuana flowers (“bud”) or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).
426.2 POLICY
It is the policy of the Cal Poly Pomona 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 Cal Poly Pomona Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

426.3 INVESTIGATION
Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

(a) Investigations when no person makes a medicinal claim.
(b) Investigations when a medicinal claim is made by a cardholder.
(c) Investigations when a medicinal claim is made by a non-cardholder.

426.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM
In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation if the amount is greater than permitted for personal use under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1; Health and Safety Code § 11362.2). A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

426.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER
A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

(a) The information contained in the card is false or falsified.
(b) The card has been obtained or used by means of fraud.
(c) The person is otherwise in violation of the provisions of the MMP.
(d) The person possesses marijuana but not for personal medical purposes.
Medical Marijuana

Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient’s medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

426.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER
No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient’s current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person’s claim of having a physician’s recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person’s medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician’s name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient’s needs (Health and Safety Code § 11362.77).

426.3.4 INVESTIGATIONS INVOLVING A STATE LICENSEE
No person issued a state license under the Business and Professions Code shall be arrested or cited for cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution or sale of medical cannabis or a medical cannabis product related to qualifying patients and primary caregivers when conducted lawfully. Whether conduct is lawful may involve questions of license classifications, local ordinances, specific requirements of the Business and Professions Code and adopted regulations. Officers should consider conferring with a supervisor, the applicable state agency or other member with special knowledge in this area and/or appropriate legal counsel before taking enforcement action against a licensee or an employee or agent (Business and Professions Code § 26032).

426.3.5 ADDITIONAL CONSIDERATIONS
Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:
Medical Marijuana

(a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at a later time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.

(b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient’s needs:

1. The amount of marijuana recommended by a medical professional to be ingested.
2. The quality of the marijuana.
3. The method of ingestion (e.g., smoking, eating, nebulizer).
4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
5. Whether the marijuana is being cultivated indoors or outdoors.

(c) Before proceeding with enforcement related to collective gardens or dispensaries, officers should consider conferring with a supervisor, an applicable state regulatory agency or other member with special knowledge in this area, and/or appropriate legal counsel (Business and Professions Code § 26010; Business and Professions Code § 26060). Licensing, zoning, and other related issues can be complex. Patients, primary caregivers, and cardholders who collectively or cooperatively cultivate marijuana for medical purposes may be licensed or may have a defense in certain circumstances (Business and Professions Code § 26032; Business and Professions Code § 26033).

(d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

426.3.6 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).
Medical Marijuana

(c) Smoking marijuana (Health and Safety Code § 11362.79):

1. In any place where smoking is prohibited by law.
2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
3. On a school bus.
4. While in a motor vehicle that is being operated.
5. While operating a boat.

(d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

426.4 FEDERAL LAW ENFORCEMENT
Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

426.5 PROPERTY UNIT SUPERVISOR RESPONSIBILITIES
The Property Unit 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 Unit 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 Unit 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 Unit supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Detective Bureau supervisor.
Foot Pursuits

428.1 PURPOSE AND SCOPE
This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

428.2 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.

428.3 DECISION TO PURSUE
The safety of department members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department members.

Officers may be justified in initiating a foot pursuit of any individual the officer reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

(a) Containment of the area.
(b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
(c) A canine search.
(d) Thermal imaging or other sensing technology.
Foot Pursuits

(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.

428.4 GENERAL GUIDELINES
When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

(a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory

(b) The officer is acting alone.

(c) Two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.

(d) The officer is unsure of his/her location and direction of travel.

(e) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.

(f) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.

(g) The officer loses radio contact with the dispatcher or with assisting or backup officers.

(h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.

(i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.

(j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.

(k) The officer loses possession of his/her firearm or other essential equipment.

(l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.

(m) The suspect’s location is no longer definitely known.
Foot Pursuits

(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.

428.5 RESPONSIBILITIES IN FOOT PURSUITS

428.5.1 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.

428.5.2 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.
428.5.3 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.

428.5.4 THE DISPATCH CENTER 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.

428.6 REPORTING REQUIREMENTS
The initiating officer shall complete appropriate crime/arrest reports documenting, at minimum:

(a) Date and time of the foot pursuit.
(b) Initial reason and circumstances surrounding the foot pursuit.
(c) Course and approximate distance of the foot pursuit.
(d) Alleged offenses.
(e) Involved vehicles and officers.
(f) Whether a suspect was apprehended as well as the means and methods used.
   1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
(g) Arrestee information, if applicable.
(h) Any injuries and/or medical treatment.
Foot Pursuits

(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.
Homeless Persons

429.1 PURPOSE AND SCOPE
The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Cal Poly Pomona Police Department recognizes that members of the homeless community are often in need of special protection and services. The Cal Poly Pomona Police Department will address these needs in balance with the overall mission of this department. Therefore, officers will consider the following when serving the homeless community.

429.1.1 POLICY
It is the policy of the Cal Poly Pomona Police Department to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or law enforcement action.

429.2 HOMELESS COMMUNITY LIAISON
The Chief of Police will designate a member of this department to act as the Homeless Liaison Officer. The responsibilities of the Homeless Liaison Officer include the following:

(a) Maintain and make available to all department employees a list of assistance programs and other resources that are available to the homeless.

(b) Meet with social services and representatives of other organizations that render assistance to the homeless.

(c) Maintain a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.

(d) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include:
   1. Proper posting of notices of trespass and clean-up operations.
   2. Proper retention of property after clean-up, to include procedures for owners to reclaim their property in accordance with the Property and Evidence Policy and other established procedures.

(e) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.

(f) Develop training to assist officers in understanding current legal and social issues relating to the homeless.
429.3 FIELD CONTACTS
Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate.

429.3.1 OTHER CONSIDERATIONS
Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

   (a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
   (b) Document places the homeless person may frequent.
   (c) Provide homeless victims with victim/witness resources when appropriate.
   (d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.
   (e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Adult Abuse Policy.
   (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
   (g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

429.4 PERSONAL PROPERTY
The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a
supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor’s responsibility to coordinate the removal and safekeeping of the property.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Homeless Liaison Officer.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the department Homeless Liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the Homeless Liaison Officer to address the matter in a timely fashion.

429.5 MENTAL ILLNESS AND MENTAL IMPAIRMENT
Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (see the Crisis Intervention Incidents Policy).

When a mental illness hold is not warranted, the contacting officer should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, officers may provide transportation to a mental health specialist if requested by the person and approved by a supervisor.

429.6 ECOLOGICAL ISSUES
Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.
First Amendment Assemblies

430.1 PURPOSE AND SCOPE
This policy provides guidance for responding to public assemblies or demonstrations.

430.2 POLICY
The Cal Poly Pomona 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.

430.3 GENERAL CONSIDERATIONS
Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafletting, 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.
430.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS
Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating department performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

430.4 UNPLANNED EVENTS
When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to the Dispatch Center, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

430.5 PLANNED EVENT PREPARATION
For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

430.5.1 INFORMATION GATHERING AND ASSESSMENT
In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.
First Amendment Assemblies

- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

430.5.2 OPERATIONAL PLANS
An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

(a) Command assignments, chain of command structure, roles and responsibilities.
(b) Staffing and resource allocation.
(c) Management of criminal investigations.
(d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).
(e) Deployment of specialized resources.
(f) Event communications and interoperability in a multijurisdictional event.
(g) Liaison with demonstration leaders and external agencies.
(h) Liaison with State government and legal staff.
(i) Media relations.
(j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.
(k) Traffic management plans.
(l) First aid and emergency medical service provider availability.
(m) Prisoner transport and detention.
(n) Review of policies regarding public assemblies and use of force in crowd control.
(o) Parameters for declaring an unlawful assembly.
(p) Arrest protocol, including management of mass arrests.
(q) Protocol for recording information flow and decisions.
(r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.
(s) Protocol for handling complaints during the event.
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(t) Parameters for the use of body-worn cameras and other portable recording devices.

430.5.3 MUTUAL AID AND EXTERNAL RESOURCES
The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Mutual Aid and Outside Agency Assistance Policy).

430.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS
If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

430.7 USE OF FORCE
Use of force is governed by current department 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.

### 430.8 ARRESTS

The Cal Poly Pomona Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

(a) Reasonable measures to address the safety of officers and arrestees.
(b) Dedicated arrest, booking and report writing teams.
(c) Timely access to medical care.
(d) Timely access to legal resources.
(e) Timely processing of arrestees.
(f) Full accountability for arrestees and evidence.
(g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Cite and Release Policy).

### 430.9 MEDIA RELATIONS

The Assistant Vice President of Strategic Communications should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

### 430.10 DEMOBILIZATION

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.
430.11 POST EVENT
The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

(a) Operational plan
(b) Any incident logs
(c) Any assignment logs
(d) Vehicle, fuel, equipment and supply records
(e) Incident, arrest, use of force, injury and property damage reports
(f) Photographs, audio/video recordings, the Dispatch Center records/tapes
(g) Media accounts (print and broadcast media)

430.11.1 AFTER-ACTION REPORTING
The Incident Commander should work with State legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

(a) Date, time and description of the event
(b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
(c) Problems identified
(d) Significant events
(e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

430.12 TRAINING
Department 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.
Civil Disputes

431.1 PURPOSE AND SCOPE
This policy provides members of the Cal Poly Pomona 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.

431.2 POLICY
The Cal Poly Pomona 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.

431.3 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.
431.4 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 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.

431.4.1 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.

431.5 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.

431.6 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.
Suspicious Activity Reporting

432.1 PURPOSE AND SCOPE
This policy provides guidelines for reporting and investigating suspicious and criminal activity.

432.1.1 DEFINITIONS
Definitions related to this policy include:

Involved party - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

Suspicious activity - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. 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 should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., “dry run,” creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.

Suspicious Activity Report (SAR) - An incident report used to document suspicious activity.

432.2 POLICY
The Cal Poly Pomona Police Department recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

432.3 RESPONSIBILITIES
The Operations Division Lieutenant and authorized designees will manage SAR activities. Authorized designees should include supervisors who are responsible for department participation in criminal intelligence systems as outlined in the Criminal Organizations Policy.

The responsibilities of the Operations Division Lieutenant include, but are not limited to:

(a) Remaining familiar with those databases available to the Department that would facilitate the purpose of this policy.
(b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.

(c) Ensuring a process is available that would allow members to report relevant information. The process should be designed to promote efficient and quick reporting, and should not be cumbersome, duplicative or complicated.

(d) Ensuring that members are made aware of the purpose and value of documenting information regarding suspicious activity, as well as the databases and other information resources that are available to the Department.

(e) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.

(f) Coordinating investigative follow-up, if appropriate.

(g) Coordinating with any appropriate agency or fusion center.

(h) Ensuring that, as resources are available, the Department conducts outreach that is designed to encourage members of the community to report suspicious activity and that outlines what they should look for and how they should report it (e.g., website, public service announcements).

432.4 REPORTING AND INVESTIGATION
Any department member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any civilian member who receives such information should ensure that it is passed on to an officer in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the member should prepare a SAR and include information about involved parties and the circumstances of the incident. If, during any investigation, an officer becomes aware of suspicious activity that is unrelated to the current investigation, the information should be documented separately in a SAR and not included in the original incident report. The report number of the original incident should be included in the SAR as a cross reference. A SAR should be processed as any other incident report.

432.5 HANDLING INFORMATION
The Records Unit will forward copies of SARs, in a timely manner, to the following:

- Detective Bureau supervisor
- Crime Analysis Unit
- Other authorized designees
Medical Aid and Response

433.1 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.

433.1 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.

433.2 POLICY
It is the policy of the Cal Poly Pomona Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

433.3 FIRST RESPONDING MEMBER RESPONSIBILITIES
Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact the Dispatch Center and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide the Dispatch Center with information for relay to EMS personnel in order to enable an appropriate response, including:
(a) The location where EMS is needed.
(b) The nature of the incident.
(c) Any known scene hazards.
(d) Information on the person in need of EMS, such as:
   1. Signs and symptoms as observed by the member.
   2. Changes in apparent condition.
   3. Number of patients, sex, and age, if known.
   4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
   5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

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.

433.4 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.

433.5 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.

433.8 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.

433.9 AIR AMBULANCE
Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

The Operations Division Lieutenant 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.

433.10  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).

433.10.1  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 and Operations Specialist who is responsible for ensuring appropriate maintenance.

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact the Dispatch Center as soon as possible and request response by EMS.

433.10.2  AED REPORTING
Any member using an AED will complete an incident report detailing its use.

433.10.3  AED TRAINING AND MAINTENANCE
The Training and Operations Specialist 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 Training and Operations Specialist 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).

433.11  ADMINISTRATION OF OPIOID OVERDOSE MEDICATION
Officers may administer opioid overdose medication in accordance with protocol specified by the licensed health care provider who prescribed the overdose medication for use by the officer, and under the following conditions (Civil Code § 1714.22; 22 CCR 100019):

(a) When trained and tested to demonstrate competence following initial instruction

(b) When authorize by the medical director of LEMSA
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(c) In accordance with California Peace Officers Standards and Training (POST)

433.11.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES
Officers who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training.

Officers should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired.

Any expired medication or unserviceable administration equipment should be removed from service and given to the Training and Operations Specialist.

Any member who administers an opioid overdose medication should contact the Dispatch Center as soon as possible and request response by EMS.

433.11.1 DESTRUCTION OF OPIOID OVERDOSE MEDICATION
The Training and Operations Specialist shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

433.11.4 OPIOID OVERDOSE MEDICATION REPORTING
Any member administering opioid overdose medication should detail its use in an appropriate report.

The Training and Operations Specialist will ensure that the Records Supervisor is provided enough information to meet applicable state reporting requirements.

433.11.5 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).

433.11.7 OPIOID OVERDOSE MEDICATION TRAINING
The Training and Operations Specialist should ensure initial and refresher training is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the local health department and comply with the requirements in 22 CCR 100019 and any applicable POST standards (Civil Code § 1714.22).

433.12 ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS
The Operations Division Lieutenant may authorize the acquisition of epinephrine auto-injectors for use by Department members as provided by Health and Safety Code § 1797.197a. The Training and Operations Specialist shall create and maintain an operations plan for the storage, maintenance, use and disposal of epinephrine auto-injectors as required by Health and Safety Code § 1797.197a(f).

Trained members who possess valid certification may administer an epinephrine auto-injector for suspected anaphylaxis (Health and Safety Code § 1797.197a(b); 22 CCR 100019).
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433.12.1 EPINEPHRINE USER RESPONSIBILITIES
Members should handle, store and administer epinephrine auto-injectors consistent with their training and the Department operations plan. Members should check the auto-injectors at the beginning of their shift to ensure the medication is not expired. Any expired medication should be removed from service in accordance with the Department Operations Plan.

Any member who administers an epinephrine auto-injector medication should contact the Dispatch Center as soon as possible and request response by EMS (Health and Safety Code § 1797.197a(b)).

433.12.2 EPINEPHRINE AUTO-INJECTOR REPORTING
Any member who administers an epinephrine auto-injector should detail its use in an appropriate report.

The Training and Operations Specialist should ensure that the Records Supervisor is provided enough information for required reporting to the EMS Authority within 30 days after each use (Health and Safety Code § 1797.197a(f)).

Records regarding the acquisition and disposition of epinephrine auto-injectors shall be maintained pursuant to the established records retention schedule but no less than three years (Business and Professions Code § 4119.4(d)).

433.12.3 EPINEPHRINE AUTO-INJECTOR TRAINING
The Training and Operations Specialist should ensure that members authorized to administer epinephrine auto-injectors are provided with initial and refresher training that meets the requirements of Health and Safety Code § 1797.197a(c) and 22 CCR 100019.

433.12 FIRST AID TRAINING
The Training and Operations Specialist 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).
Chapter 5 - Traffic Operations
Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE
The ultimate goal of traffic law enforcement is to reduce traffic collisions. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on accident data, enforcement activity records, traffic volume, and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in accident situations, but also in terms of traffic-related needs.

500.2 TRAFFIC OFFICER DEPLOYMENT
Several factors are considered in the development of deployment schedules for officers of the Cal Poly Pomona Police Department. Information provided by the California Statewide Integrated Traffic Reporting System (SWITRS) is a valuable resource for traffic accident occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of accident causing violations during high accident hours and at locations of occurrence. All officers will take directed enforcement action on request, and random enforcement action when appropriate against violators as a matter of routine. All officers shall maintain high visibility while working general enforcement, especially at high accident locations.

Other factors to be considered for deployment are requests from the public, construction zones or special events.

500.3 ENFORCEMENT
Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance (Vehicle Code § 41603). The visibility and quality of an officer’s work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:
Traffic Function and Responsibility

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.

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).
Traffic Function and Responsibility

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

500.5.1 REQUIRED USE
Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS
High-visibility vests shall be maintained in the trunk of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Training and Operations Specialist should be promptly notified whenever the supply of vests in the equipment room needs replenishing.
Traffic Collision Reporting

501.1 PURPOSE AND SCOPE
The Cal Poly Pomona Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service makes traffic collision reports available to the community with some exceptions.

501.2 RESPONSIBILITY
The Operations Lieutenant will be responsible for distribution of the Collision Investigation Manual. The Operations Lieutenant will receive all changes in the state manual and ensure conformity with this policy.

501.3 TRAFFIC COLLISION REPORTING
All traffic collision reports taken by members of this department shall be forwarded to the Traffic Bureau for approval and data entry into the Records Management System. The Operations Lieutenant will be responsible for monthly and quarterly reports on traffic collision statistics to be forwarded to the Operations Division Lieutenant, or other persons as required.

501.4 REPORTING SITUATIONS

501.4.1 TRAFFIC COLLISIONS INVOLVING STATE VEHICLES
Traffic collision investigation reports shall be taken when a State-owned vehicle is involved in a traffic collision upon a roadway or highway wherein any damage or injury results. A general information report may be taken in lieu of a traffic collision report (CHP 555 form) at the direction of a supervisor when the collision occurs on private property or does not involve another vehicle. Whenever there is damage to a State vehicle, a Vehicle Damage Report shall be completed and forwarded to the appropriate Division Lieutenant.

Photographs of the collision scene and vehicle damage shall be taken at the discretion of the traffic investigator or any supervisor.

501.4.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES
When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the Cal Poly Pomona Police Department resulting in a serious injury or fatality, the Operations Lieutenant or the Watch Commander, may notify the California Highway Patrol for assistance.

The term serious injury is defined as any injury that may result in a fatality.

501.4.3 TRAFFIC COLLISIONS WITH OTHER STATE EMPLOYEES OR OFFICIALS
The Operations Lieutenant or on-duty Watch Commander may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any State official or employee where a serious injury or fatality has occurred.
501.4.4 TRAFFIC COLLISIONS ON PRIVATE PROPERTY
In compliance with the Collision Investigation Manual, traffic collision reports shall not be taken for traffic collisions occurring on private property unless there is a death or injury to any person involved, a hit-and-run violation, or Vehicle Code violation. An Incident Report may be taken at the discretion of any supervisor.

501.4.5 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS
Traffic collision reports shall be taken when they occur on a roadway or highway within the jurisdiction of this department under any of the following circumstances:

(a) When there is a death or injury to any persons involved in the collision
(b) When there is an identifiable violation of the Vehicle Code
(c) When a report is requested by any involved driver

501.5 NOTIFICATION OF TRAFFIC BUREAU SUPERVISION
In the event of a serious injury or death related traffic collision, the Watch Commander shall notify the Operations Lieutenant to relate the circumstances of the traffic collision and seek assistance from the Traffic Bureau. In the absence of a Operations Lieutenant, the Watch Commander or any supervisor may assign an accident investigator or motor officer to investigate the traffic collision.
Vehicle Towing and Release

502.1 PURPOSE AND SCOPE
This policy provides the procedures for towing a vehicle by or at the direction of the Cal Poly Pomona Police Department. Nothing in this policy shall require the Department to tow a vehicle.

502.2 STORAGE AND IMPOUNDS
When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

502.2.1 VEHICLE STORAGE REPORT
Department 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 Unit as soon as practicable after the vehicle is stored.

502.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES
When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in the Dispatch Center.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the State of Cal Poly Pomona. The officer will then store the vehicle using a CHP Form 180.

502.2.3 STORAGE AT ARREST SCENES
Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee’s vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high-crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:
Vehicle Towing and Release

- 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.

502.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS
Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving without a valid driver’s license, the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver’s license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver’s license and current vehicle registration.

502.2.5 DRIVING A NON-CITY VEHICLE
Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

502.2.6 DISPATCHER’S RESPONSIBILITIES
Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

When there is no preferred company requested, the dispatcher shall call the next firm in rotation from the list of approved towing companies and shall make appropriate entries on that form to ensure the following firm is called on the next request.

502.2.7 RECORDS UNIT RESPONSIBILITY
Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).
Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Unit 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.

502.3 TOWING SERVICES
The State of Cal Poly Pomona periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

(a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
(b) When a vehicle is being held as evidence in connection with an investigation.
(c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal of vehicles obstructing traffic in violation of state or local regulations.

502.4 VEHICLE INVENTORY
All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

502.5 SECURITY OF VEHICLES AND PROPERTY
Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.
If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

502.6 RELEASE OF VEHICLE
The Department 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.
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.
Vehicle Impound Hearings

503.1 PURPOSE AND SCOPE
This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

503.2 STORED OR IMPOUND HEARING
When a vehicle is stored or impounded by any member of the Cal Poly Pomona Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

503.2.1 HEARING PROCEDURES
The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The Operations Lieutenant 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
where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department’s policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

(a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.

1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.

(b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department’s expense (Vehicle Code § 22852(e)).

(c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Division Lieutenant. The hearing officer will recommend to the appropriate Division Lieutenant that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Department.
Impaired Driving

504.1 PURPOSE AND SCOPE
This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

504.2 POLICY
The Cal Poly Pomona Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California’s impaired driving laws.

504.3 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 Operations Lieutenant will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

(a) The field sobriety tests (FSTs) administered and the results.
(b) The officer’s observations that indicate impairment on the part of the individual, and the officer’s health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
(c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
(d) Information about any audio and/or video recording of the individual’s driving or subsequent actions.
(e) The location and time frame of the individual’s vehicle operation and how this was determined.
(f) Any prior related convictions in California or another jurisdiction.

504.4 FIELD TESTS
The Operations Lieutenant should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

504.5 CHEMICAL TESTS
A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

(a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.
(b) The person is under 21 years of age and is arrested by an officer having reasonable cause to believe that the person’s blood alcohol content is 0.05 or more (Vehicle Code § 23140).

(c) The person is under 21 years of age and detained by an officer having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).

(d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

504.5.1 STATUTORY NOTIFICATIONS
Officers requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

504.5.2 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, he/she 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 his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

504.5.3 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21
If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

504.5.4 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 his/her blood or breath, and the officer shall advise the person that he/she has that choice. If the person arrested either is
incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

504.5.5 BREATH SAMPLES
The Operations Lieutenant 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 Operations Lieutenant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the officer’s belief shall be included in the officer’s report (Vehicle Code § 23612(a)(2)(C)).

504.5.6 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 he/she 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 he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.
504.5.7 URINE SAMPLES
If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

504.6 REFUSALS
When an arrestee refuses to provide a viable chemical sample, officers should:

(a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).
(b) Audio- and/or video-record the admonishment when it is practicable.
(c) Document the refusal in the appropriate report.

504.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL
Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

504.6.2 BLOOD SAMPLE WITHOUT CONSENT
A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

(a) A search warrant has been obtained (Penal Code § 1524).
(b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person’s bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

504.6.3 FORCED BLOOD SAMPLE
If an arrestee indicates by word or action that he/she 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.
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(b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.

(c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.
   1. This dialogue should be recorded on audio and/or video if practicable.

(d) Ensure that the blood sample is taken in a medically approved manner.

(e) Ensure the forced blood draw is recorded on audio and/or video when practicable.

(f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
   1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
   2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
   3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.

(g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

504.7 ARREST AND INVESTIGATION

504.7.1 WARRANTLESS ARREST
In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

(a) The person is involved in a traffic accident.
(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 him/herself or damage property unless immediately arrested.
(e) The person may destroy or conceal evidence of a crime unless immediately arrested.
504.7.2 OFFICER RESPONSIBILITIES
The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

(a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver’s license to the Department of Motor Vehicles (DMV).
(b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
(c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

504.8 RECORDS UNIT RESPONSIBILITIES
The Records Supervisor will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney’s office.

504.8 ADMINISTRATIVE HEARINGS
The Records Supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

504.9 TRAINING
The Training and Operations Specialist 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 and Operations Specialist should confer with the prosecuting attorney’s office and update training topics as needed.
Traffic Citations

505.1 PURPOSE AND SCOPE
This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

505.2 RESPONSIBILITIES
The Operations Lieutenant shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Unit shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

505.3 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 sergeant assigned to oversee investigations. Upon a review of the circumstances involving the issuance of the traffic citation, the reviewing sergeant may request the Operations Division Lieutenant to recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an officer determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the officer may request the court to dismiss the citation. Upon dismissal of the traffic citation by the court, the officer shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required. The citation dismissal shall then be forwarded to the Operations Division Lieutenant for review.

505.4 VOIDING TRAFFIC CITATIONS
Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed, but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Records Bureau.

505.5 CORRECTION OF TRAFFIC CITATIONS
When a traffic citation is issued and in need of correction, the officer issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The citation and letter shall then be forwarded to the Records Bureau. The Records Bureau shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.
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505.6 DISPOSITION OF TRAFFIC CITATIONS
The court and file copies of all traffic citations issued by members of this department shall be forwarded to the employee’s immediate supervisor for review. The citation copies shall then be filed with the Records Unit.

Upon separation from employment with this department, all employees issued traffic citation books shall return any unused citations to the Records Unit.

505.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE
Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

505.7.1 APPEAL STAGES
Appeals may be pursued sequentially at three different levels (Vehicle Code § 40215; Vehicle Code § 40230):

(a) Administrative reviews are conducted by the Parking and Transportation Appeal Coordinator, who will review written/documentary data. Requests for administrative reviews are available at the front desk or via Parking and Transportation webpage. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.

(b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application, at the election of the appellant. Independent referees review the existent administrative file, amendments, and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.

(c) If the appellant wishes to pursue the matter beyond an administrative hearing, a Superior Court review may be presented in person by the appellant after an application for review and designated filing fees have been paid to the Superior Court of California.

505.7.2 TIME REQUIREMENTS
Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

(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).
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(d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209; Vehicle Code § 40210).

505.7.3 COSTS

(a) There is no cost for an administrative review.

(b) Appellants must deposit the full amount due for the citation before receiving an administrative hearing, unless the person is indigent, as defined in Vehicle Code § 40220, and provides satisfactory proof of inability to pay (Vehicle Code § 40215).

(c) An appeal through Superior Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

505.8 JUVENILE CITATIONS

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile’s age, place of residency, and the type of offense should be considered before issuing the juvenile a citation.
Disabled Vehicles

506.1 PURPOSE AND SCOPE
Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

506.2 OFFICER RESPONSIBILITY
When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

506.3 EXTENT OF ASSISTANCE
In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by department personnel will be contingent on the time of day, the location, the availability of department resources, and the vulnerability of the disabled motorist.

506.3.1 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.

506.3.2 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.

506.3.3 RELOCATION OF DISABLED MOTORIST
The relocation of a disabled motorist should only occur with the person’s consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

506.4 PUBLIC ACCESS TO THIS POLICY
This written policy is available upon request.
Chapter 6 - Investigation Operations
Investigation and Prosecution

600.1 PURPOSE AND SCOPE
The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.2 POLICY
It is the policy of the Cal Poly Pomona 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 INITIAL INVESTIGATION

600.3.1 OFFICER RESPONSIBILITIES
An officer responsible for an initial investigation shall complete no less than the following:

(a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
   1. An initial statement from any witnesses or complainants.
   2. A cursory examination for evidence.

(b) If information indicates a crime has occurred, the officer shall:
   1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
   2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
   3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
   4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
   5. Collect any evidence.
   6. Take any appropriate law enforcement action.
   7. Complete and submit the appropriate reports and documentation.

(c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

600.3.2 CIVILIAN MEMBER RESPONSIBILITIES
A civilian member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take
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any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

600.4  CUSTODIAL INTERROGATION REQUIREMENTS
Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

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

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Detective Bureau supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

600.4.2  MANDATORY RECORDING OF ADULTS
Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.
(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The Department shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

600.5 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 Adult Abuse policies may also require an arrest or submittal of a case to a prosecutor.
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 his/her own equipment,
the member should note the dates, times and locations of the information and report the discovery
to his/her 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.
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 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY
The Operations Division Lieutenant is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

(a) Security procedures are developed to protect information gathered through the use of the technology.

(b) A usage and privacy policy is developed that includes:

1. The purposes for which using cellular communications interception technology and collecting information is authorized.

2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.

3. Training requirements necessary for those authorized employees.

4. A description of how the Department will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.

5. Process and time period system audits.

6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.

7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.

8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with department security procedures, the department’s usage and privacy procedures and all applicable laws.

600.9 MODIFICATION OF CHARGES FILED
Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Division Lieutenant or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.
Sexual Assault Investigations

601.1 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 Adult Abuse policies.

601.1.1 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.

601.2 POLICY
It is the policy of the Cal Poly Pomona 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.

601.3 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.
601.4 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.

601.5 VICTIM INTERVIEWS
The primary considerations in sexual assault investigations, which begin with the initial call to the Dispatch Center, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

601.5.1 VICTIM RIGHTS
Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

(a) 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, any other rights of a sexual assault victim pursuant to 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 his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2).
601.5.2 VICTIM CONFIDENTIALITY
Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim’s parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim’s parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

601.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE
Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

601.6.1 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT
The Property Unit 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).

601.6.3 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).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

601.6.4 DNA TEST RESULTS
A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available 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) Subject to the commitment of sufficient resources to respond to requests for information, 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 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 of case evidence.

(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.

601.7 DISPOSITION OF CASES
If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Detective Bureau supervisor.

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.

601.8 CASE REVIEW
The Detective Bureau supervisor should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

601.9 RELEASING INFORMATION TO THE PUBLIC
In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Detective Bureau supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.
601.10 TRAINING
Subject to available resources, periodic training should be provided to:

(a) Members who are first responders. Training should include:
   1. Initial response to sexual assaults.
   2. Legal issues.
   3. Victim advocacy.
   4. Victim’s response to trauma.
   5. Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).

(b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:
   1. Interviewing sexual assault victims.
   2. SART.
   3. Medical and legal aspects of sexual assault investigations.
   4. Serial crimes investigations.
   5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
   6. Techniques for communicating with victims to minimize trauma.
Eyewitness Identification

604.1 PURPOSE AND SCOPE
This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Penal Code § 859.7).

604.1.1 DEFINITIONS
Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

604.2 POLICY
The Cal Poly Pomona Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

604.3 INTERPRETIVE SERVICES
Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM
The Detective Bureau supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide (Penal Code § 859.7):

(a) The date, time and location of the eyewitness identification procedure.

(b) The name and identifying information of the witness.
Eyewitness Identification

(c) The name of the person administering the identification procedure.
(d) If applicable, the names of all of the individuals present during the identification procedure.
(e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
(f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
(g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
(h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
(i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
(j) A statement from the witness in the witness’s own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
(k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

604.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures (Penal Code § 859.7).

604.6 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination show-up or one-on-one identification should not be
used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

(a) Obtain a complete description of the suspect from the witness.

(b) Assess whether a witness should be included in a field identification process by considering:

1. The length of time the witness observed the suspect.
2. The distance between the witness and the suspect.
3. Whether the witness could view the suspect’s face.
4. The quality of the lighting when the suspect was observed by the witness.
5. Whether there were distracting noises or activity during the observation.
6. Any other circumstances affecting the witness’s opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

(c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

(d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.

(e) The person who is the subject of the show-up should not be shown to the same witness more than once.

(f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.

(g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

(h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

604.7 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.
604.7.1 DOCUMENTATION RELATED TO RECORDINGS
The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

604.7.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION
If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

604.8 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS
When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup (Penal Code § 859.7).

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

604.8.1 OTHER SAFEGUARDS
Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that may validate or invalidate an eyewitness’ identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).
Brady Material Disclosure

605.1 PURPOSE AND SCOPE
This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “Brady information”) to a prosecuting attorney.

605.1.1 DEFINITIONS
Definitions related to this policy include:

Brady information - Information known or possessed by the Cal Poly Pomona Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

605.2 POLICY
The Cal Poly Pomona 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 Cal Poly Pomona 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.

605.3 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.
605.4 DISCLOSURE OF PERSONNEL INFORMATION
Whenever it is determined that Brady information is located in the personnel file of a member of this department who is a material witness in a criminal case, the following procedure shall apply:

(a) In the event that a Pitchess motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of Brady information in the officer's personnel file.

(b) The prosecuting attorney should then be requested to file a Pitchess motion in order to initiate an in-camera review by the court.

(c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.

(d) The Custodian of Records shall accompany all relevant files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.

(e) If the court determines that there is relevant Brady information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

605.5 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.

605.6 TRAINING
Department members should receive periodic training on the requirements of this policy.
Unmanned Aerial System (UAS) Operations

606.1 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.

606.1.1 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.

606.2 POLICY
Unmanned aerial systems may be utilized to enhance the department’s mission of maintaining social order, 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. Such uses include, but are not limited to:

- Arrests of dangerous persons
- Barricaded suspects who refuse an order to surrender
- Cases of suicide threats
- Critical city infrastructure inspections and GIS mapping needs
- Outdoor events
- Suspicious package inspections
- Traffic accident and crime scene documentation / reconstruction

606.3 RESPONSIBILITIES AND DUTIES
Responsibilities

(a) A pilot's primary duty is the safe and effective operation of the agency's UAV, in accordance with the manufactures' approved flight manual, FAA regulation and certificate of authorization conditions and UPD's Policies and Procedures.

(b) The pilot is authorized to refuse any flight request based on current meteorological conditions, physiological conditions, or for any other reason that PIC believes will affect the safety of the flight. Should the PIC refuse a flight for any reason, they shall inform the requesting supervisor or higher authority as soon as possible of such refusal and the reason for refusal.
While the aircraft is in flight, the pilot is authorized and responsible for making all decisions regarding use of the aircraft including, but not limited to, direction of aircraft, duration of flight time, capabilities of the aircraft, maximum load allowance, use of affixed certified equipment, allowance or advisability of affixing additional equipment, the determination of allowance of personal or agency equipment, and configurations.

**Duties**

(a) Maintaining current awareness of all pertinent agency requirements, FAA regulations, and other regulatory data bearing on the performance of their duties

(b) Exercise final responsibility and authority for the safety of the aircraft, personnel, and equipment during flight operations

(c) Flight planning and preparation, including preflight inspections of the aircraft and equipment, to include

1. Weather briefing

2. Making appropriate entries in aircraft logbooks when necessary

3. Post-flight inspection, to include assuring batteries are recharged, to ensure the duty aircraft is ready for the next mission

4. Timely reporting of new or previously unknown hazards to safe flight encountered

5. All Very High Frequency (VHF) air-to-air, air-to-ground, Air Traffic Control (ATC) communications, and any other radio communications

6. Go/no-go and landing judgments with regard to weather minimum or other criteria

7. Landing zone selection

8. Flight operations, including course, air speed, altitude, and duration

**606.4 OPERATIONAL CONTROL**

**Pilot Authority**

(a) The pilot shall initiate the flight only when confident the flight can be conducted safely

(b) The pilot shall ensure there is a Certificate of Authorization (GOA) from the FAA to conduct flights in the national airspace. If an emergency GOA is required by the FAA for a particular flight, the pilot shall forward the requested documents to the FAA upon request

(c) If a search warrant is required to fly the UAV during a deployment or investigation, the case agent shall be responsible for writing and having the warrant signed by a judge.

**Observer Authority**

(a) Avoid operations of the aircraft. The Observer shall remain in contact with the PIC and communicate any obstacles the aircraft might encounter
(b) Observers shall operate any attachments to the UAV, allowing the operator to maintain complete focus on the operation of the UAV

(c) Observers are responsible for the law enforcement aspect of the deployment

(d) The Observer shall be responsible for all radio communication with Air Traffic Control (ATC) and dispatch

(e) During any phase of flight, if the Observer notices a malfunction with the aircraft, the PIC should immediately terminate the flight

(f) When the flight becomes a hazard to ground personnel or other aircraft, the Observer shall immediately notify the PIC

606.5 FLIGHT OPERATIONS

Aircraft Inspection

(a) Before any flight, the PIC is responsible for pre-flight inspections of the aircraft according to the pre-flight checklist

(b) Any anomalies found by the PIC shall be fixed before any flight is conducted

(c) The Supervisor is responsible for making sure all checklists are up-to-date and current for each aircraft make and mod

Emergency Procedures

(a) In the event of an emergency involving the safety of persons or property, the pilot may deviate from the procedures of this directive relating to aircraft, equipment, and weather minimums to the extent required to meet the needs of the emergency, while operating with due regards for the safety of all involved., without prior approval.

(b) In the event of a fly away or lost link communications, the Observer will immediately contact the Brackett Field Airport Tower at (909)593-2539 or via a 2 way radio on frequency 118.200

Medical

(a) Each member shall report to work prepared for the tasks at hand

(b) Physical illness, exhaustion, emotional problems, etc., can seriously impair judgment, memory and alertness. Unit members are expected to ground themselves when issues arise that could reasonably be expected to affect their ability to perform flight duties

(c) A self-assessment of physical conditions shall be made by all flight crew members during preflight activities.

Data Storage

(a) The Observer is the custodian of evidence. In this capacity the Observer is responsible for safeguarding and proper processing of any evidence including, but not limited to, digital imagery to include still and video images. Only data that meets legitimate research objectives, or has evidentiary value, will be retained after the mission has been concluded. Said data will be safeguarded so as to protect the privacy of citizens
who may be depicted in the data. All other data will be destroyed through electronic deletion. Digital logs of aircraft mission profiles are exempt from this requirement

(b) All digital imagery recorded for evidentiary reasons will be filed under a case number and a report will be generated indicating the nature of the digital evidence

606.6 ACTIVITY REPORTING
Flight activities will be documented in the aircraft logbook using the appropriate incident or case number. This may be in a written or electronic format at the discretion of the Supervisor in charge. Flight activities correlated to crime reports shall be documented using the appropriate report number in a standard police report.

606.7 PRIVACY
The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

606.8 PROGRAM COORDINATOR
The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Ensuring that all authorized operators and required observers have completed all required FAA and department-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.
- 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.

606.9 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 during daylight hours and a UAS should not be flown over populated areas without FAA approval. The program coordinator will ensure a current and approved FAA Certificate of Waiver or Authorization is on file that permits flight operations during nighttime hours and over populated areas.

606.9.1 TRAINING
All members within the flight program shall maintain proficiency in their Pilot /Observer abilities. Members who do not have any documented training or flight time within a span of 90 days will have to show proficiency before being a Pilot/Observer during a deployment or exercise.

The following are the minimum training standards that have been adopted by this agency for UAS operators

Pilots

• Shall possess a Pilot's certificate or be under the direct supervision of a licensed operator.

• Shall comply with FAA Part 107
**Unmanned Aerial System (UAS) Operations**

- Demonstrated ability to navigate the operational environment during scenario based exercises.

**Observers**

- Should complete sufficient training to communicate to the pilot any instructions required to remain clear of conflicting traffic. This training, at a minimum, shall include knowledge of the rules and responsibilities described in 14 CFR 91.111, Operating Near Other Aircraft; 14 CFR 91.113, Right-of-Way Rules: Except Water Operations; and 14 CFR 91.155, Basic VFR Weather Minimums;

- Knowledge of air traffic and radio communications, including the use of approved ATC/pilot phraseology; and knowledge of appropriate sections of the Aeronautical Information Manual.

**606.10 PROHIBITED USE**

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.

- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

- To harass, intimidate, or discriminate against any individual or group.

- To conduct personal business of any type.

The UAS shall not be weaponized.

**606.11 RETENTION OF UAS DATA**

Data collected by the UAS shall be retained as provided in the established records retention schedule.
Warrant Service

607.1 PURPOSE AND SCOPE
This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

607.2 POLICY
It is the policy of the Cal Poly Pomona Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

607.3 OPERATIONS DIRECTOR
The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

607.4 SEARCH WARRANTS
Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

607.5 ARREST WARRANTS
If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence...
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to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

607.6  WARRANT PREPARATION
An officer who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

(a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.

(b) A clear explanation of the affiant’s training, experience and relevant education.

(c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.

(d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.

(e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.

(f) A specific description of the location to be searched, including photographs of the location, if reasonably available.

(g) A sufficient description of the items to be seized.

(h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

607.7  HIGH-RISK WARRANT SERVICE
The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

(a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.

(b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.

(c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the
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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.

607.8 DETENTIONS DURING WARRANT SERVICE
Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

607.9 ACTIONS AFTER WARRANT SERVICE
The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

607.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS
The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
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- 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 Cal Poly Pomona Police Department are utilized appropriately. Any concerns regarding the requested use of Cal Poly Pomona 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 Cal Poly Pomona 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 Cal Poly Pomona Police Department when assisting outside agencies or serving a warrant outside Cal Poly Pomona Police Department jurisdiction.

607.11 MEDIA ACCESS
No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

607.12 TRAINING
The Training and Operations Specialist should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.
Operations Planning and Deconfliction

608.1 PURPOSE AND SCOPE
This policy provides guidelines for planning, deconfliction and execution of high-risk operations. Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

608.1.1 DEFINITIONS
Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

608.2 POLICY
It is the policy of the Cal Poly Pomona Police Department to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

608.3 OPERATIONS DIRECTOR
The Chief of Police will designate a member of this department to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

608.4 RISK ASSESSMENT

608.4.1 RISK ASSESSMENT FORM PREPARATION
Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:
(a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.

(b) Maps of the location.

(c) Diagrams of any property and the interior of any buildings that are involved.

(d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).

(e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).

(f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).

(g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).

(h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

608.4.2 RISK ASSESSMENT REVIEW
Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

608.4.3 HIGH-RISK OPERATIONS
If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

(a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:

1. (LASD)
2. Additional personnel
3. Outside agency assistance
4. Special equipment
5. Medical personnel
6. Persons trained in negotiation
7. Additional surveillance
Operations Planning and Deconfliction

8. Canines
9. Property Unit 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.

608.5 DECONFLICTION
Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The officer who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

608.6 OPERATIONS PLAN
The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:
(a) Operation goals, objectives and strategies.
(b) Operation location and people:
   1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
   2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces,
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, Adult Abuse, Child and Dependent Adult Safety and Animal Control policies.

(k) Communications plan

(l) Responsibilities for writing, collecting, reviewing and approving reports.

608.6.1 OPERATIONS PLAN RETENTION
Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

608.7 OPERATIONS BRIEFING
A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.
The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants’ understanding of the operations plan.

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.

The operations director shall ensure that all participants are visually identifiable as law enforcement officers.

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.

The briefing should include details of the communications plan.

1. It is the responsibility of the operations director to ensure that the Dispatch Center 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 the Dispatch Center, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.

3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

608.8 LASD PARTICIPATION

If the operations director determines that LASD participation is appropriate, the director and the LASD supervisor shall work together to develop a written plan. The LASD 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 LASD supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

608.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

608.10 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any LASD debriefing.
608.11 TRAINING
The Training and Operations Specialist should ensure officers and LASD 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.
Chapter 7 - Equipment
Electronic Communication Devices

701.1 PURPOSE AND SCOPE
The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy refers to all such devices as Electronic Personal Communication Devices (ECDs) which includes either Personal Communication Devices (PCE) or Department-Provided Communication Devices (DCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable Internet access devices. ECD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

701.2 POLICY
The Cal Poly Pomona Police Department allows members to utilize department-issued or funded DCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any DCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of an ECD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member’s PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

701.3 PRIVACY EXPECTATION
Members have a limited expectation of privacy with regard to any work related communication accessed, transmitted, received or reviewed on any PCD. Members shall have no expectation of privacy with regard to any DCD, including their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

701.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)
No member is authorized to be the sole possessor of a department-issued DCD. Department-issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a supervisor without notice. Member use of a department-issued DCD and specific consent for access for department purposes.
701.4 DEPARTMENT-ISSUED DCD
Depending on a member’s assignment and the needs of the position, the Department may, at its discretion, issue or fund a DCD. Department-issued or funded DCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause. Prior to conducting an administrative search of a DCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code 1546, Penal Code 1546.1)

Unless a member is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the DCD, the DCD will either be secured in the workplace at the completion of the tour of duty or will be turned off when leaving the workplace.

701.5 PERSONALLY OWNED PCD
Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

(a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.

(b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.

(c) The PCD and any associated services shall be purchased, used and maintained solely at the member’s expense.

(d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.

1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief of Police.

(e) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.

(f) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.

(g) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Cal Poly Pomona Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member’s shift.
Except with prior express authorization from their supervisor, members are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or existing memorandum of understanding or collective bargaining agreements, or if the member has prior express authorization from his/her supervisor, the member may engage in business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Members who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

701.6 USE OF ECD
The following protocols shall apply to all ECDs that are carried while on-duty or used to conduct department business:

(a) A ECD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
(b) All ECDs in the workplace shall be set to silent or vibrate mode.
(c) A ECD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of ECDs to authorized break times, unless an emergency exists.
(d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. ECDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
(e) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.
(f) Members will not access social networking sites except during authorized breaks and for official department business.
(g) Using ECDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

701.7 SUPERVISOR RESPONSIBILITIES
The responsibilities of supervisors include, but are not limited to:

(a) Ensuring that members under their command are provided appropriate training on the use of ECDs consistent with this policy.
Electronic Communication Devices

(b) Monitoring, to the extent practicable, ECD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.

(a) An investigation into improper conduct should be promptly initiated when circumstances warrant.

(b) Before conducting any administrative search of a member’s personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

701.8 OFFICIAL USE
Members are reminded that ECDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing ECDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

701.9 USE WHILE DRIVING
The use of a ECD 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 ECD.

Members who are operating department vehicles that are not authorized emergency vehicles shall not use a ECD 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.
Vehicle Maintenance

702.1 PURPOSE AND SCOPE
Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

702.2 DEFECTIVE VEHICLES
When a department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

702.2.1 DAMAGE OR POOR PERFORMANCE
Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

702.2.2 SEVERE USE
Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer’s parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

702.2.3 REMOVAL OF WEAPONS
All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the department armory prior to the vehicle being released for maintenance, service or repair.

702.3 VEHICLE EQUIPMENT
Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

702.3.1 PATROL VEHICLES
Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- Emergency road flares
- Yellow chalk
- Roll Crime Scene Barricade Tape
- First aid kit
- Hazardous waste disposal bag
702.3.2 UNMARKED VEHICLES
An employee driving unmarked department vehicles shall ensure that the minimum following equipment is present in the vehicle:

- Emergency road flares
- Roll Crime Scene Barricade Tape
- First aid kit, CPR mask
- 1 Hazardous waste disposal bag
- 1 Traffic Safety Vest

702.4 VEHICLE REFUELING
Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location.

702.5 WASHING OF VEHICLES
All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers in patrol shall obtain clearance from the dispatcher before responding to the car wash. Only one marked unit should be at the car wash at the same time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

702.6 CIVILIAN EMPLOYEE USE
Civilian employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Civilian employees shall also prominently display the “out of service” placards or lightbar covers at all times. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.
Vehicle Use

703.1 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 State of Cal Poly Pomona to provide assigned take-home vehicles.

703.2 POLICY
The Cal Poly Pomona 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.

703.3 USE OF VEHICLES

703.3.1 SHIFT ASSIGNED VEHICLES
The Watch Commander shall ensure a copy of the shift assignment roster indicating member assignments and vehicle numbers is completed for each shift and retained in accordance with the established records retention schedule. If a member exchanges vehicles during his/her shift, the new vehicle number shall be documented on the roster.

703.3.2 OTHER USE OF VEHICLES
Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Watch Commander. A notation will be made on the shift assignment roster indicating the member’s name and vehicle number.

This subsection does not apply to those who are assigned to vehicle transportation duties to and from the maintenance yard or carwash.

703.3.3 INSPECTIONS
Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.
Vehicle Use

All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

703.3.4 SECURITY AND UNATTENDED VEHICLES
Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

703.3.5 MDC
Members assigned to vehicles equipped with a Mobile Digital Computer (MDC) shall log onto the MDC with the required information when going on-duty. If the vehicle is not equipped with a working MDC, the member shall notify the Dispatch Center. Use of the MDC is governed by the Mobile Digital Computer Use Policy.

703.3.6 VEHICLE LOCATION SYSTEM
Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle’s location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. At the start of each shift, members shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that the system is not functioning properly at any time during the shift, he/she should exchange the vehicle for one with a working system, if available.

System data may be accessed by supervisors at any time. However, access to historical data by other than supervisors will require Division Lieutenant approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

703.3.7 KEYS
Members approved to operate marked patrol vehicles should be issued a copy of the key as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member’s chain of command.
Vehicle Use

703.3.8 AUTHORIZED PASSENGERS
Members operating department vehicles shall not permit persons other than State personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

703.3.9 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.

703.3.10 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.

703.3.11 ACCESSORIES AND/OR MODIFICATIONS
There shall be no modifications, additions or removal of any equipment or accessories without written permission from the assigned vehicle program manager.

703.3.12 CIVILIAN MEMBER USE
Civilian members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Civilian members shall prominently display the "out of service" placards or light bar covers at all times. Civilian members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES
Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

703.4.1 ON-DUTY USE
Vehicle assignments shall be based on the nature of the member’s duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other department members at the discretion of the Chief of Police or the authorized designee.
703.4.2 UNSCHEDULED TAKE-HOME USE
Circumstances may arise where department vehicles must be used by members to commute to and from a work assignment. Members may take home department vehicles only with prior approval of a supervisor and shall meet the following criteria:

(a) The circumstances are unplanned and were created by the needs of the department.
(b) Other reasonable transportation options are not available.
(c) The member lives within a reasonable distance (generally not to exceed a 60-minute drive time) of the Cal Poly Pomona State limits.
(d) Off-street parking will be available at the member’s residence.
(e) Vehicles will be locked when not attended.
(f) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

703.4.3 ASSIGNED VEHICLES
Assignment of take-home vehicles shall be based on the location of the member’s residence, the nature of the member’s duties, job description and essential functions, and employment or appointment status. Residence in the State of Cal Poly Pomona is a prime consideration for assignment of a take-home vehicle. Members who reside outside the State of Cal Poly Pomona may be required to secure the vehicle at a designated location or the Department at the discretion of the Chief of Police.

Department members shall sign a take-home vehicle agreement that outlines certain standards, including, but not limited to, how the vehicle shall be used, where it shall be parked when the member is not on-duty, vehicle maintenance responsibilities and member enforcement actions.

Members are cautioned that under federal and local tax rules, personal use of a State vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member’s tax adviser.

Criteria for use of take-home vehicles include the following:

(a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Chief of Police or a Division Lieutenant gives authorization.
(b) Vehicles may be used to transport the member to and from the member’s residence for work-related purposes.
(c) Vehicles will not be used when off-duty except:
   1. In circumstances when a member has been placed on call by the Chief of Police or Division Lieutenants and there is a high probability that the member will be called back to duty.
2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or travelling to or from a work-related activity or function.

3. When the member has received permission from the Chief of Police or Division Lieutenants.

4. When the vehicle is being used by the Chief of Police, Division Lieutenants or members who are in on-call administrative positions.

5. When the vehicle is being used by on-call investigators.

(d) While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.

(e) The two-way communications radio, MDC and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation.

(f) Unattended vehicles are to be locked and secured at all times.

1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging).

2. All weapons shall be secured while the vehicle is unattended.

3. All department identification, portable radios and equipment should be secured.

(g) Vehicles are to be parked off-street at the member’s residence unless prior arrangements have been made with the Chief of Police or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).

(h) Vehicles are to be secured at the member’s residence or the appropriate department facility, at the discretion of the Department when a member will be away (e.g., on vacation) for periods exceeding one week.

1. If the vehicle remains at the residence of the member, the Department shall have access to the vehicle.

2. If the member is unable to provide access to the vehicle, it shall be parked at the Department.

(i) The member is responsible for the care and maintenance of the vehicle.

703.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Cal Poly Pomona Police Department or while off-duty, an officer shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).
Vehicle Use

Officers driving take-home vehicles shall be armed, appropriately attired and carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

703.4.5 MAINTENANCE
Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Department. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

(a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
(b) It is the member’s responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
(c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department supervisor in charge of vehicle maintenance.
(d) The Department shall be notified of problems with the vehicle and approve any major repairs before they are performed.
(e) When leaving the vehicle at the maintenance facility, the member will complete a vehicle repair card explaining the service or repair, and leave it on the seat or dash.
(f) All weapons shall be removed from any vehicle left for maintenance.
(g) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

703.5 UNMARKED VEHICLES
Vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a division supervisor. Any member operating an unmarked vehicle shall record vehicle usage on the sign-out log maintained in the division for that purpose. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall also record the use with the Watch Commander on the shift assignment roster.

703.6 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 format and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.
**703.7 TOLL ROAD USAGE**

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating department vehicles on a toll road shall adhere to the following:

(a) Members operating department vehicles for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder. Members may submit a request for reimbursement from the State for any toll fees incurred in the course of official business.

(b) Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Division Lieutenant within five working days explaining the circumstances.

**703.7 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.
Personal Protective Equipment

705.1 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.

705.1.1 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.

705.2 POLICY
The Cal Poly Pomona Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

705.3 OFFICER RESPONSIBILITIES
Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

705.4 HEARING PROTECTION
Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in 8 CCR 5098.

705.5 EYE PROTECTION
Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.
The Rangemaster shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

**705.6 HEAD AND BODY PROTECTION**
Members who make arrests or control crowds should be provided ballistic head protection with an attachable face shield.

Padded body protection consisting of chest, arm, leg and groin protection should be provided as required by any collective bargaining agreement.

**705.7 RESPIRATORY PROTECTION**
The Administrative Services Division Lieutenant 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.

**705.7.1 RESPIRATORY PROTECTION USE**
Designated members may be issued respiratory PPE based on the member’s assignment (e.g., a narcotics investigator who is involved in clandestine lab investigations).

Respiratory PPE may be worn when authorized by a scene commander who will determine the type and level of protection appropriate at a scene based upon an evaluation of the hazards present.

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member’s degree of exposure or stress may affect respirator effectiveness, the scene commander shall reevaluate the continued effectiveness of the respirator and direct the member to leave the respirator use area when the scene commander reasonably believes (8 CCR 5144):
(a) It is necessary for the member to wash his/her face and the respirator facepiece to prevent eye or skin irritation associated with respirator use.

(b) The member detects vapor or gas breakthrough, or there is a change in breathing resistance or leakage of the facepiece.

(c) The member needs to replace the respirator, filter, cartridge or canister.

705.7.2 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.

705.7.3 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.
705.7.4 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.

705.7.5 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.

705.7.6 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.

705.8 RECORDS
The Training and Operations Specialist 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.
Personal Protective Equipment

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.

705.9 TRAINING
Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove and adjust PPE; how to care for the PPE; and the limitations (8 CCR 3380).

Members issued respiratory PPE shall attend annual training on the proper use of respiratory protection devices (8 CCR 5144).
Chapter 8 - Support Services
Dispatch Center

801.1 PURPOSE AND SCOPE
This policy establishes guidelines for the basic functions of the Dispatch Center. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

801.2 POLICY
It is the policy of the Cal Poly Pomona 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 the Dispatch Center and department members in the field.

801.3 THE DISPATCH CENTER SECURITY
The communications function is vital and central to all emergency service operations. The safety and security of the Dispatch Center, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for the Dispatch Center.

Access to the Dispatch Center shall be limited to the Dispatch Center members, the Watch Commander, command staff and department members with a specific business-related purpose.

801.4 RESPONSIBILITIES

801.4.1 LEAD DISPATCHER
The Chief of Police shall appoint and delegate certain responsibilities to a Lead Dispatcher. The Lead Dispatcher is directly responsible to the Operations Division Lieutenant or the authorized designee.

The responsibilities of the Lead Dispatcher include, but are not limited to:

(a) Overseeing the efficient and effective operation of the Dispatch Center in coordination with other supervisors.
(b) Scheduling and maintaining dispatcher time records.
(c) Supervising, training and evaluating dispatchers.
(d) Ensuring the radio and telephone recording system is operational.
   1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.
(e) Processing requests for copies of the Dispatch Center information for release.
(f) Maintaining the Dispatch Center database systems.
(g) Maintaining and updating the Dispatch Center procedures manual.
1. Procedures for specific types of crime reports may be necessary. For example, specific questions and instructions may be necessary when talking with a victim of a sexual assault to ensure that his/her health and safety needs are met, as well as steps that he/she may take to preserve evidence.

2. Ensuring dispatcher compliance with established policies and procedures.
   (h) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.
   (i) Maintaining a current contact list of State personnel to be notified in the event of a utility service emergency.

801.4.2 ADDITIONAL PROCEDURES
The Lead Dispatcher should establish procedures for:
   (a) Recording all telephone and radio communications and playback issues.
   (b) Storage and retention of recordings.
   (c) Security of audio recordings (e.g., passwords, limited access, authorized reviewers, preservation of recordings past normal retention standards).
   (d) Availability of current information for dispatchers (e.g., Watch Commander contact, rosters, member tracking methods, member contact, maps, emergency providers, tactical dispatch plans).
   (e) Assignment of field members and safety check intervals.
   (f) Emergency Medical Dispatch (EMD) instructions.
   (g) Procurement of external services (e.g., fire suppression, ambulances, aircraft, tow trucks, taxis).
   (h) Protection of essential equipment (e.g., surge protectors, gaseous fire suppression systems, uninterruptible power systems, generators).
   (i) Protection of radio transmission lines, antennas and power sources for the Dispatch Center (e.g., security cameras, fences).
   (j) Handling misdirected, silent and hang-up calls.
   (k) Handling private security alarms, if applicable.
   (l) Radio interoperability issues.

801.4.3 DISPATCHERS
Dispatchers report to the Lead Dispatcher. 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).
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 the Dispatch Center, 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.

801.5 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 the Dispatch Center, the dispatcher should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the dispatcher is unable to identify the caller’s language, the dispatcher will contact the contracted telephonic interpretation service and establish a three-party call connecting the dispatcher, the LEP individual and the interpreter.

Dispatchers should be courteous, patient and respectful when dealing with the public.

801.5.1 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.

801.5.2 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.

801.6 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 Lead Dispatcher 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.
801.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE
Cal Poly Pomona Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

801.6.2 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 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.

801.7 DOCUMENTATION
It shall be the responsibility of the Dispatch Center 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.

801.8 CONFIDENTIALITY
Information that becomes available through the Dispatch Center may be confidential or sensitive in nature. All members of the Dispatch Center shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as Department of Motor Vehicle records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to
authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

801.9 TRAINING AND CERTIFICATION
Dispatchers shall receive training consistent with minimum standards established by POST (Penal Code § 13510).
Property and Evidence

802.1 PURPOSE AND SCOPE
This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

802.2 DEFINITIONS
Property - Includes all items of evidence, items taken for safekeeping and found property.
Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.
Safekeeping - Includes the following types of property:
• Property obtained by the Department for safekeeping such as a firearm
• Personal property of an arrestee not taken as evidence
• Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))
Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

802.3 PROPERTY HANDLING
Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

802.3.1 PROPERTY BOOKING PROCEDURE
All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall observe the following guidelines:

(a) Complete the property form describing each item of property separately, listing all serial numbers, owner’s name, finder’s name, and other identifying information or markings.

(b) Mark each item of evidence with the booking employee’s initials and the date booked using the appropriate method so as not to deface or damage the value of the property.

(c) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
(d) Place the case number in the upper right hand corner of the bag.

(e) The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.

(f) When the property is too large to be placed in a locker, the item may be retained in the supply room. Submit the completed property record into a numbered locker indicating the location of the property.

802.3.2 NARCOTICS AND DANGEROUS DRUGS
All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker accompanied by two copies of the form for the Records Unit and detectives. The remaining copy will be detached and submitted with the case report.

802.3.3 EXPLOSIVES
Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Evidence Technician is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

802.3.4 EXCEPTIONAL HANDLING
Certain property items require a separate process. The following items shall be processed in the described manner:

(a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.

(b) License plates found not to be stolen or connected with a known crime, should be released directly to the Evidence Technician, or placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.

(c) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property may be released directly to the Evidence Technician, or placed in the bicycle storage area until a Evidence Technician can log the property.

(d) All cash shall be counted in the presence of a supervisor and the envelope initialed by the booking officer and the supervisor. The Watch Commander shall be contacted for cash in excess of $1,000 for special handling procedures.
State property, unless connected to a known criminal case, should be released directly to the appropriate State department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

802.3.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

(a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or

(b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or

(c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Evidence Technician shall ensure the Records Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Unit Policy).

802.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

(a) Narcotics and dangerous drugs

(b) Firearms (ensure they are unloaded and booked separately from ammunition)

(c) Property with more than one known owner

(d) Paraphernalia as described in Health and Safety Code § 11364

(e) Fireworks

(f) Contraband

802.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.
802.4.2 PACKAGING NARCOTICS
The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated narcotics locker, accompanied by two copies of the property record. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be packaged in an envelope of appropriate size available in the report room. The booking officer shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

802.5 RECORDING OF PROPERTY
The Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the Cal Poly Pomona Police Department shall be noted in the property logbook.

802.6 PROPERTY CONTROL
Each time the Evidence Technician receives property or releases property to another person, he/she shall enter this information on the property control card. Officers desiring property for court shall contact the Evidence Technician at least one day prior to the court day.

802.6.1 RESPONSIBILITY OF OTHER PERSONNEL
Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from a supervisor or detective.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the Evidence Technician. This request may be filled out any time after booking of the property or evidence.

802.6.1 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.

802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY
The transporting employee will check the evidence out of property, indicating the date and time on the property control card and the request for laboratory analysis.
Property and Evidence

The Evidence Technician releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies, and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records Unit for filing with the case.

802.6.3 STATUS OF PROPERTY
Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time and to whom released.

The Evidence Technician shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

802.6.4 AUTHORITY TO RELEASE PROPERTY
The Detective Bureau shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

802.6.5 RELEASE OF PROPERTY
All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Evidence Technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered
on the property control card, the card shall be forwarded to the Records Unit for filing with the case. If some items of property have not been released, the property card will remain with the Property Unit. 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 Unit 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).

802.6.6  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)).

802.6.7  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.

802.6.10  RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS
Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the Evidence Technician shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

802.6.11  RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS
Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that
the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Cal Poly Pomona 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.

802.6.12 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

(a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.

(b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.

(c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

802.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Evidence Technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

802.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
• Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
• Counterfeiting equipment (Penal Code § 480)
• Gaming devices (Penal Code § 335a)
• Obscene matter ordered to be destroyed by the court (Penal Code § 312)
• Altered vehicles or component parts (Vehicle Code § 10751)
• Narcotics (Health and Safety Code § 11474 et seq.)
• Unclaimed, stolen, or embezzled property (Penal Code § 1411)
• Destructive devices (Penal Code § 19000)
• Sexual assault evidence (Penal Code § 680)

802.7.2 UNCLAIMED MONEY
If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than $15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this department 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.

802.7.3 RETENTION OF BIOLOGICAL EVIDENCE
The Property Unit 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 Operations 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 Unit 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 Operations 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 Operations Division supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

802.8 INSPECTIONS OF THE EVIDENCE ROOM

(a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

(b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.

(c) An annual audit of evidence held by the Department shall be conducted by a Division Lieutenant (as appointed by the Chief of Police) not routinely or directly connected with evidence control.

(d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.
Records Unit

803.1 PURPOSE AND SCOPE
This policy establishes the guidelines for the operational functions of the Cal Poly Pomona Police Department Records Unit. The policy addresses department file access and internal requests for case reports.

803.2 POLICY
It is the policy of the Cal Poly Pomona Police Department to maintain department records securely, professionally, and efficiently.

803.3 RESPONSIBILITIES

803.3.1 RECORDS SUPERVISOR
The Chief of Police shall appoint and delegate certain responsibilities to a Records Supervisor. The Records Supervisor shall be directly responsible to the Administrative Services Division Lieutenant or the authorized designee.

The responsibilities of the Records Supervisor include but are not limited to:

(a) Overseeing the efficient and effective operation of the Records Unit.
(b) Scheduling and maintaining Records Unit time records.
(c) Supervising, training, and evaluating Records Unit staff.
(d) Maintaining and updating a Records Unit procedure manual.
(e) Ensuring compliance with established policies and procedures.
(f) Supervising the access, use, and release of protected information (see the Protected Information Policy).
(g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include but are not limited to:
   1. Homicides.
   2. Cases involving department members or public officials.
   3. Any case where restricted access is prudent.

803.3.2 RECORDS UNIT
The responsibilities of the Records Unit include but are not limited to:

(a) Maintaining a records management system for case reports.
   1. The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.
(b) Entering case report information into the records management system.
1. Modification of case reports shall only be made when authorized by a supervisor.

(c) Providing members of the Department with access to case reports when needed for investigation or court proceedings.

(d) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics. This includes reporting statistical data to the California Department of Justice (DOJ) for:

1. All officer-involved shootings and incidents involving use of force resulting in serious bodily injury (Government Code § 12525.2).
2. Suspected hate crimes (Penal Code § 13023).
3. Complaints of racial bias against officers (Penal Code § 13012; Penal Code § 13020).
4. Civilian complaints made against officers (Penal Code § 832.5; Penal Code § 13012).
5. Stop data required by Government Code § 12525.5 and 11 CCR 999.226.

(a) The reported information must not contain personally identifiable information of the person stopped or other information exempt from disclosure pursuant to Government Code § 12525.5 (11 CCR 999.228).

(e) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.

(f) Identifying missing case reports and notifying the responsible member’s supervisor.

(g) Updating the Automated Firearms System to reflect any firearms relinquished to the Department and the subsequent disposition to the DOJ pursuant to Penal Code § 34010 (Penal Code § 29810).

(h) Entering into the Automated Firearms System information about each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, or under observation within seven calendar days of the precipitating event (Penal Code § 11108.2).

(i) Maintaining compliance with the state and DOJ reporting requirements regarding the number of transfers of individuals to immigration authorities and offenses that allowed for the transfers (Government Code § 7284.6(c)(2)).

(j) Transmitting data to the Joint Regional Information Exchange System on any suspected multi-mission extremist crimes.

803.3.3 RECORDS UNIT PROCEDURE MANUAL
The Records Supervisor should establish procedures that address:

(a) Identifying by name persons in reports.

(b) Classifying reports by type of incident or crime.

(c) Tracking reports through the approval process.

(d) Assigning alpha-numerical records to all arrest records.
(e) Managing a warrant and wanted persons file.

803.4 FILE ACCESS AND SECURITY
The security of files in the Records Unit 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 Unit, accessible only by authorized members of the Records Unit. Access to case reports or files when Records Unit staff is not available may be obtained through the Watch Commander.

The Records Unit will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

803.5 ORIGINAL CASE REPORTS
Generally, original case reports shall not be removed from the Records Unit. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from the Records Supervisor. All original case reports removed from the Records Unit shall be recorded on a designated report check-out log, which shall be the only authorized manner by which an original case report may be removed from the Records Unit.

All original case reports to be removed from the Records Unit shall be photocopied and the photocopy retained in the file location of the original case report until the original is returned to the Records Unit. The photocopied report shall be shredded upon return of the original report to the file.

803.6 CONFIDENTIALITY
Records Unit staff has access to information that may be confidential or sensitive in nature. Records Unit 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 Unit procedure manual.

803.7 DETERMINATION OF FACTUAL INNOCENCE
In any case where a person has been arrested by officers of the Cal Poly Pomona 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 Administrative Services Supervisor. The Administrative Services Supervisor should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.
Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Administrative Services Supervisor should forward the petition to the Detective Bureau Supervisor and the Office of General Counsel for review. After such review and consultation with the Office of General Counsel, the Detective Bureau Supervisor and the Administrative Services Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Administrative Services Supervisor shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California DOJ and other law enforcement agencies (Penal Code § 851.8).

The Administrative Services Supervisor should respond to a petition with the Department’s decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

803.8 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Operations Division Lieutenant 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.
Restoration of Firearm Serial Numbers

804.1 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.

804.2 PROCEDURE
Any firearm coming into the possession of the Cal Poly Pomona Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

804.2.1 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.

804.2.2 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.
804.2.3 OFFICER RESPONSIBILITY
The Evidence Technician receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

804.2.4 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.

804.2.5 FIREARM TRACE
After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Evidence Technician will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

804.3 BULLET AND CASING IDENTIFICATION
Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.
Records Maintenance and Release

805.1 PURPOSE AND SCOPE
This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

805.2 POLICY
The Cal Poly Pomona Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq.).

805.3 CUSTODIAN OF RECORDS RESPONSIBILITIES
The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

(a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.

(b) Maintaining and updating the department records retention schedule including:
   1. Identifying the minimum length of time the Department must keep records.
   2. Identifying the department division responsible for the original record.

(c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records (Government Code § 6253).

(d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.

(e) Establishing rules regarding the processing of subpoenas for the production of records.

(f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 6253).

(g) Determining how the department’s website may be used to post public records in accordance with Government Code § 6253.

(h) Ensuring that all department current standards, policies, practices, operating procedures, and education and training materials are posted on the department website in accordance with Penal Code § 13650.

(i) Ensuring that public records posted on the Department website meet the requirements of Government Code § 6253.10 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.
(j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 6270.5) is publicly available upon request and posted in a prominent location on the Department’s website.

805.4 PROCESSING REQUESTS FOR PUBLIC RECORDS
Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

805.4.1 REQUESTS FOR RECORDS
Any member of the public, including the media and elected officials, may access unrestricted records of this department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 6253).

The processing of requests for any record is subject to the following (Government Code § 6253):

(a) The Department is not required to create records that do not exist.

(b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver’s license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 6254.30).

(c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.

1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 6253.1).

2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.

(d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 6253.9).
When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.

1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

805.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

(a) Personal identifying information, including an individual’s photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).

(b) Social Security numbers (Government Code § 6254.29).

(c) Personnel records, medical records, and similar records which would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).

1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.

2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police, or as required by law.

(d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking, Penal Code § 293). Addresses and telephone numbers of a victim or a witness to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).

1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their
representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).

(e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 6254.4.5.

(f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 6254).

1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).

(g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, Office of General Counsel, or the courts pursuant to Penal Code § 1054.5.

(h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).

(i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

(j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 6254).

(k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

(l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 6254).

(m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).
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(n) Records relating to the security of the department’s electronic technology systems (Government Code § 6254.19).

(o) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7(b)(8)).

(p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 6254).

(q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

805.6  RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 6254(f)(4)).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 6254(f)(4)).

The Custodian of Records should work as appropriate with the Chief of Police or the Internal Affairs Unit supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

805.6.1  DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

(a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.

(b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.

(c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 6254(f)(4)).
805.6.2 NOTICE OF DELAY OF RELEASE
When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 6254(f)(4)):

(a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.

(b) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

805.6.3 REDACTION
If the Custodian of Records, in consultation with the Chief of Police or authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 6254(f)(4)).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 6254(f)(4)).

805.6.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE
If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 6254(f)(4)):

(a) The person in the recording whose privacy is to be protected, or his/her authorized representative.

(b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
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(c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 6254(f)(4)).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 6254(f)(4)(A)).

805.7 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, Office of General Counsel or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

805.8 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released should include the department name and to whom the record was released.

805.9 SEALED RECORD ORDERS

Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Records Supervisor shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.
805.9.1 SEALED JUVENILE ARREST RECORDS
Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Records Supervisor should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

805.9.2 SEALED JUVENILE ARREST RECORDS
Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Records Supervisor should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

805.9.3 SEALED JUVENILE ARREST RECORDS
Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Records Supervisor should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

805.10 SECURITY BREACHES
The Records Supervisor shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Department information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual’s first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
- Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
• Information or data collected by Automated License Plate Reader (ALPR) technology
• Unique biometric data

805.10.1 FORM OF NOTICE
(a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:
   1. The date of the notice.
   2. Name and contact information for the Cal Poly Pomona Police Department.
   3. A list of the types of personal information that were or are reasonably believed to have been acquired.
   4. The estimated date or date range within which the security breach occurred.
   5. Whether the notification was delayed as a result of a law enforcement investigation.
   6. A general description of the security breach.
   7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.

(b) The notice may also include information about what the Cal Poly Pomona Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).

(c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):
   1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
   2. When the breach involves an email address that was furnished by the Cal Poly Pomona Police Department, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

805.10.2 MANNER OF NOTICE
(a) Notice may be provided by one of the following methods (Civil Code § 1798.29):
   1. Written notice.
2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.

3. Substitute notice if the cost of providing notice would exceed $250,000, the number of individuals exceeds 500,000 or the Department does not have sufficient contact information. Substitute notice shall consist of all of the following:

   (a) Email notice when the Department has an email address for the subject person.

   (b) Conspicuous posting of the notice on the department’s webpage for a minimum of 30 days.

4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.

   (b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.
Protected Information

806.1 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 Cal Poly Pomona 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.

806.1.1 DEFINITIONS
Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Cal Poly Pomona 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.

806.2 POLICY
Members of the Cal Poly Pomona 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.

806.3 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.
**806.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Cal Poly Pomona 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.

**806.4.1 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).

**806.5 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 Unit to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

**806.5.1 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).

**806.5.2 TRANSMISSION GUIDELINES**

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio.
When circumstances reasonably indicate that the immediate safety of officers, other department members, or the public is at risk, only summary information may be transmitted.

In cases where the transmission of protected information, such as Personally Identifiable Information, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, a MDC or department-issued cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

- Elements of protected information should be broken up into multiple transmissions, to minimally separate an individual’s combined last name and any identifying number associated with the individual, from either first name or first initial.
- Additional information regarding the individual, including date of birth, home address, or physical descriptors, should be relayed in separate transmissions.

Nothing in this policy is intended to prohibit broadcasting warrant information.

**806.6 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).

**806.7 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:

- Developing and maintaining security practices, procedures and training.
- Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

**806.7.1 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).
806.8 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.
Jeanne Clery Campus Security Act

809.1 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.

809.2 POLICY
The Cal Poly Pomona 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 Cal Poly Pomona 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 Cal Poly Pomona Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Cal Poly Pomona 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.

809.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT
The Chief of Police will:

(a) Ensure that the Cal Poly Pomona 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)).
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 Cal Poly Pomona 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 Cal Poly Pomona 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).

809.3.1 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 Cal Poly Pomona 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 Cal Poly Pomona 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 Cal Poly Pomona Police Department, the institution must immediately inform the victim of that disclosure (Education Code § 67380).

809.4 RECORDS COLLECTION AND RETENTION
The Records Supervisor is responsible for maintaining Cal Poly Pomona 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 Cal Poly Pomona 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)).

809.4.1 COMPILING RECORDS FOR DISCLOSURE REQUIREMENTS
The Records Supervisor is also responsible for compiling the following to allow the institution to comply with its disclosure requirements under Education Code § 67380:

(a) All occurrences reported to the Cal Poly Pomona 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 Cal Poly Pomona Police Department for which a written report is prepared.
809.4.2 CRIME LOG
The Records Supervisor is 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 Cal Poly Pomona Police Department, including the nature, date, time and general location of each crime, and the disposition, if known.

(b) All log entries shall be made within two business days of the initial report being made to the Department.

(c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.

(d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:

1. Disclosure of the information is prohibited by law.
2. Disclosure would jeopardize the confidentiality of the victim.
3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

809.5 INFORMATION DISSEMINATION
It is the responsibility of the Administrative Services Division Lieutenant 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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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.


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.
Temporary Custody of Adults

900.1 PURPOSE AND SCOPE
This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Cal Poly Pomona Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

900.1.1 DEFINITIONS
Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

**Safety checks** - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

**Temporary custody** - The time period an adult is in custody at the Cal Poly Pomona Police Department prior to being released or transported to a housing or other type of facility.

900.2 POLICY
The Cal Poly Pomona Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

900.3 GENERAL CRITERIA AND SUPERVISION
No adult should be in temporary custody for longer than six hours.

900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY
Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Cal Poly Pomona Police Department, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

(a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.

(b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while he/she is in temporary custody.

(c) Any individual who is seriously injured.
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(d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).

1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).

(e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.

(f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.

(g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to him/herself or others (15 CCR 1053; 15 CCR 1055).

(h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).

(i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.

(j) Any individual who is obviously developmentally disabled (15 CCR 1057).

(k) Any individual who appears to be a danger to him/herself or others due to a mental disorder, or who appears gravely disabled (15 CCR 1052).

(l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).

(m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability (15 CCR 1027).

At least one female department member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).
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Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

900.3.3 STAFFING PLAN
The Chief of Police or the authorized designee shall ensure a staffing plan is prepared and maintained, indicating assigned personnel and their duties. The plan should ensure that at least one member who meets the training standards established by the Corrections Standards Authority (CSA) for general fire- and life-safety and is trained in fire- and life-safety procedures relating specifically to the facility is on-duty at all times (15 CCR 1028).

The staffing plan shall be available for biennial review by CSA staff. The review and recommendations of the CSA biennial review shall be forwarded to the State, as required by 15 CCR 1027.

900.3.4 ENTRY RESTRICTIONS
Entry into any location where a person is held in custody should be restricted to:

(a) Authorized members entering for official business purposes.
(b) Emergency medical personnel when necessary.
(c) Any other person authorized by the Watch Commander.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

900.4 INITIATING TEMPORARY CUSTODY
The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the State jail or the appropriate mental health facility.

The officer should promptly notify the Watch Commander of any conditions that may warrant immediate medical attention or other appropriate action. The Watch Commander shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.
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900.4.1 SCREENING AND PLACEMENT
The officer responsible for an individual in custody shall (15 CCR 1050):

(a) Advise the Watch Commander of any significant risks presented by the individual (e.g.,
suicide risk, health risk, violence).

(b) Evaluate the following issues against the stated risks in (a) to determine the need for
placing the individual in a single cell:

1. Consider whether the individual may be at a high risk of being sexually abused
based on all available known information (28 CFR 115.141), or whether the
person is facing any other identified risk.

2. Provide any individual identified as being at a high risk for sexual or other
victimization with heightened protection. This may include (28 CFR 115.113; 28
CFR 115.141):

   (a) Continuous, direct sight and sound supervision.

   (b) Single-cell placement in a cell that is actively monitored on video by a
member who is available to immediately intervene.

3. Ensure individuals are separated according to severity of the crime (e.g., felony
or misdemeanor).

4. Ensure males and females are separated by sight and sound when in cells.

5. Ensure restrained individuals are not placed in cells with unrestrained
individuals.

(c) Ensure that those confined under civil process or for civil causes are kept separate
from those who are in temporary custody pending criminal charges.

(d) Ensure separation, as appropriate, based on other factors, such as age, criminal
sophistication, assaultive/non-assaultive behavior, mental state, disabilities and
sexual orientation.

900.4.2 CONSULAR NOTIFICATION
Consular notification may be mandatory when certain foreign nationals are arrested.
The Operations Division Lieutenant will ensure that the U.S. Department of State’s list of countries
and jurisdictions that require mandatory notification is readily available to department members.
There should also be a published list of foreign embassy and consulate telephone and fax
numbers, as well as standardized notification forms that can be transmitted and then retained for
documentation. Prominently displayed signs informing foreign nationals of their rights related to
consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

(a) Inform the individual, without delay, that he/she may have his/her consular officers
notified of the arrest or detention and may communicate with them.

   1. This notification should be documented.
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(b) Determine whether the foreign national’s country is on the U.S. Department of State’s mandatory notification list.

1. If the country is on the mandatory notification list, then:
   (a) Notify the country’s nearest embassy or consulate of the arrest or detention by fax or telephone.
   (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
   (c) Forward any communication from the individual to his/her consular officers without delay.
   (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual’s file.

2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
   (a) Notify the country’s nearest embassy or consulate of the arrest or detention by fax or telephone.
   (b) Forward any communication from the individual to his/her consular officers without delay.

900.5   SAFETY, HEALTH AND OTHER PROVISIONS

900.5.1   TEMPORARY CUSTODY LOGS
Any time an individual is in temporary custody at the Cal Poly Pomona Police Department, the custody shall be promptly and properly documented in a custody log, including:

   (a) Identifying information about the individual, including his/her name.
   (b) Date and time of arrival at the Department.
   (c) Any charges for which the individual is in temporary custody and any case number.
   (d) Time of all safety checks (15 CCR 1027; 15 CCR 1027.5).
   (e) Any medical and other screening requested and completed.
   (f) Any emergency situations or unusual incidents.
   (g) Any other information that may be required by other authorities, such as compliance inspectors.
   (h) Date and time of release from the Cal Poly Pomona Police Department.

The Watch Commander should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Watch Commander should make periodic checks to ensure all log entries and safety and security checks are made on time.
900.5.2 TEMPORARY CUSTODY REQUIREMENTS
Members monitoring or processing anyone in temporary custody shall ensure:

(a) Safety checks and significant incidents/activities are noted on the log.
(b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.
   1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
   2. This does not apply to surreptitious and legally obtained recorded interrogations.
(c) There is reasonable access to toilets and wash basins.
(d) There is reasonable access to a drinking fountain or water.
(e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
(f) There is privacy during attorney visits.
(g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
(h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
   1. The supervisor should ensure that there is an adequate supply of clean blankets.
(i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
(j) Adequate furnishings are available, including suitable chairs or benches.

900.5.3 MEDICAL CARE
First-aid equipment and basic medical supplies should be available to department members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the Cal Poly Pomona Police Department. They should be released or transferred to another facility as appropriate.

900.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE
Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person or is a risk
to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

900.5.5 TELEPHONE CALLS
Immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an individual in custody has the right to make at least three completed calls to an attorney, bail bondsman, and a relative or other person (Penal Code § 851.5). Additional calls may be made as reasonable and necessary (15 CCR 1067). In providing further access to a telephone beyond that required by Penal Code § 851.5, legitimate law enforcement interests such as officer safety, effect on ongoing criminal investigations and logistics should be balanced against the individual’s desire for further telephone access.

(a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.

1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
2. The provisions of Penal Code § 851.5 concerning this issue shall be posted in bold, block type in a conspicuous place within the facility.

(b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.

1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
2. Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that he/she may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).

(c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).

900.5.6 RELIGIOUS ACCOMMODATION
Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated (15 CCR 1072). Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety.
The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual’s head and face may be temporarily removed during the taking of any photographs.

900.5.7 FIREARMS AND OTHER SECURITY MEASURES
Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

900.5.8 REPORTING PHYSICAL HARM OR SERIOUS THREAT OF PHYSICAL HARM
In addition to a custody log entry, any incident that results in physical harm or serious threat of physical harm to a member, person in custody or any other person shall be documented as stated in the Use of Force or On-Duty Injuries policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The Watch Commander will retain a record of these reports for inspection purposes (15 CCR 1044).

900.5.9 ATTORNEYS AND BAIL BONDSMEN
(a) An attorney may visit at the request of the individual in custody or a relative (Penal Code § 825).
(b) Attorneys and bail bondsmen who need to interview an individual in custody should do so inside a secure interview room.
(c) The individual in custody as well as the attorney or bail bondsman should be searched for weapons prior to being admitted to the interview room and at the conclusion of the interview.
(d) Attorneys must produce a current California Bar card as well as other matching appropriate identification.
(e) Interviews between attorneys and their clients shall not be monitored or recorded (15 CCR 1068).

900.5.10 DISCIPLINE
Discipline will not be administered to any individual in custody at this facility. Any individual in custody who repeatedly fails to follow directions or facility rules should be transported to the
appropriate jail, mental health facility or hospital as soon as practicable. Such conduct should be documented and reported to the receiving facility (15 CCR 1081).

900.6 USE OF RESTRAINT DEVICES
Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Cal Poly Pomona Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

900.6.1 PREGNANT ADULTS
Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

900.7 PERSONAL PROPERTY
The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient’s signature on the appropriate form.

Upon release of an individual from temporary custody, his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person’s signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Watch Commander shall attempt to prove or disprove the claim.

900.8 HOLDING CELLS
A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:
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(a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces and jackets, shall be removed.

(b) The individual shall constantly be monitored by an audio/video system during the entire custody.

(c) The individual shall have constant auditory access to department members.

(d) The individual’s initial placement into and removal from a locked enclosure shall be logged.

(e) Safety checks by department members shall occur no less than every 15 minutes (15 CCR 1027.5).
   1. Safety checks should be at varying times.
   2. All safety checks shall be logged.
   3. The safety check should involve questioning the individual as to his/her well-being.
   4. Individuals who are sleeping or apparently sleeping should be awakened.
   5. Requests or concerns of the individual should be logged.

900.8.1 USE OF SOBERING CELL
Inmates who are to be held in the Temporary Holding Facility and who present a threat to their own safety or the safety of others due to their state of intoxication should be placed in a sobering cell until their condition allows for continued processing.

The following guidelines apply when placing any inmate in a sobering cell (15 CCR 1056):

(a) Placement of an inmate into the cell requires approval of the Watch Commander.

(b) A cell log shall be initiated every time an inmate is placed in the cell. The log shall be maintained for the entire time the inmate is housed in the cell.

(c) A safety check consisting of direct visual observation sufficient to assess the inmate’s well-being and behavior shall occur at least once every 30 minutes. Each safety check shall be documented in the cell log. Supervisors shall check the logs for completeness every two hours and document this action on the cell log.

(d) Under no circumstances shall an inmate be held in a sobering cell for more than six hours without being evaluated by qualified medical personnel to ensure that the inmate does not have an urgent medical issue.

(e) Inmates will be removed from the cell when they no longer pose a threat to their own safety and the safety of others, and are able to continue processing.

900.9 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY
The Operations Division Lieutenant will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Cal Poly Pomona Police Department. The procedures should include the following:
Temporary Custody of Adults

(a) Immediate request for emergency medical assistance if appropriate
(b) Immediate notification of the Watch Commander, Chief of Police and Operations Division Lieutenant
(c) Notification of the spouse, next of kin or other appropriate person
(d) Notification of the appropriate prosecutor
(e) Notification of the Office of General Counsel
(f) Notification of the Coroner
(g) Evidence preservation
(h) In-custody death reviews (15 CCR 1046)
(i) Notification to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)

900.10 RELEASE AND/OR TRANSFER

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

(a) All proper reports, forms and logs have been completed prior to release.
(b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
(c) It has been confirmed that the correct individual is being released or transported.
(d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.
(e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
(f) The individual is not permitted in any nonpublic areas of the Cal Poly Pomona Police Department unless escorted by a member of the Department.
(g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
   1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
(h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
(i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.
900.10.1 FORM REQUEST FOR PETITION TO SEAL RECORDS
Upon request, a detained arrestee released from custody shall be provided with the appropriate Judicial Council forms to petition the court to have the arrest and related records sealed (Penal Code § 851.91).

The Department shall display the required signage that complies with Penal Code § 851.91 advising an arrestee of the right to obtain the Judicial Council forms.

900.11 ASSIGNED ADMINISTRATOR
The Operations Division Lieutenant will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

(a) General security
(b) Key control
(c) Sanitation and maintenance
(d) Emergency medical treatment (15 CCR 1200)
(e) Escapes
(f) Evacuation plans
(g) Fire- and life-safety, including a fire suppression pre-plan as required by 15 CCR 1032
(h) Disaster plans
(i) Building and safety code compliance
(j) Civil and other disturbances including hostage situations
(k) Periodic testing of emergency equipment
(l) Emergency suspension of Title 15 regulations and notice to the Board of State and Community Corrections as required in 15 CCR 1012
(m) Inspections and operations reviews
(n) Any other applicable requirements under 15 CCR 1029

Annual review and evaluation of security measures including internal and external security measures, sanitation, safety and maintenance (15 CCR 1280).

These supplemental procedures shall be reviewed and updated no less than every two years and shall be available to all members (15 CCR 1029).

900.12 TRAINING
Department members should be trained and familiar with this policy and any supplemental procedures.

Department members responsible for supervising adults in temporary custody shall complete the Corrections Officer Core Course or eight hours of specialized training within six months of assignment. Such training shall include but not be limited to the following (15 CCR 1024):
Temporary Custody of Adults

(a) Applicable minimum jail standards
(b) Jail operations liability
(c) Inmate segregation
(d) Emergency procedures and planning, fire safety, and life safety.
(e) Suicide prevention

Eight hours of refresher training shall be completed once every two years (15 CCR 1024).

The Training and Operations Specialist shall maintain records of all such training in the member's training file.
Custodial Searches

901.1 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 Cal Poly Pomona 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.

901.1.1 DEFINITIONS
Definitions related to this policy include:

Custody search - An in-custody search of an individual and of his/her 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 or rectal cavity of an individual, and the vagina of a female person.

Strip search - A search that requires an individual to remove or rearrange some or all of his/her 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 his/her underclothing, buttocks, genitalia or female breasts are visible.

901.2 POLICY
All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

901.3 FIELD AND TRANSPORTATION SEARCHES
An officer should conduct a custody search of an individual immediately after his/her 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.
901.4 SEARCHES AT POLICE FACILITIES
Custody searches shall be conducted on all individuals in custody, upon entry to the Cal Poly Pomona Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

901.4.1 PROPERTY
Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, 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 Cal Poly Pomona Police Department identification number and information regarding how and when the property may be released.

901.4.2 VERIFICATION OF MONEY
All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

901.5 STRIP SEARCHES
No individual in temporary custody at any Cal Poly Pomona 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:
Custodial Searches

(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
   1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).

(d) The individual’s actions or demeanor.

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual’s genital status. If the individual’s genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

901.5.1 STRIP SEARCH PROCEDURES
Strip searches at Cal Poly Pomona 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.
Custodial Searches

4. The name of the individual who was searched.
5. The name and sex of the members who conducted the search.
6. The name, sex and role of any person present during the search.
7. The time and date of the search.
8. The place at which the search was conducted.
9. A list of the items, if any, that were recovered.
10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.

(g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies 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 his/her privacy and dignity.

(h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

(i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

901.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES
A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

(a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.

(b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.
901.6 PHYSICAL BODY CAVITY SEARCH
Physical body cavity searches shall be subject to the following (Penal Code § 4030):

(a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

(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.
901.7 BODY SCANNER SEARCH
If a body scanner is available, a body scan search should be performed on all inmates/arrestees 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 female inmates if they are pregnant prior to a body scan and should not knowingly use a body scanner on a woman who is pregnant.

901.8 TRAINING
The Training and Operations Specialist 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.
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 Cal Poly Pomona Police Department and that are promulgated and maintained by the Employee and Organizational Development and Advancement.

1000.2 POLICY
In accordance with applicable federal, state, and local law, the Cal Poly Pomona 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 Administrative Services Division should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

(a) Identification of racially and culturally diverse target markets.
(b) Use of marketing strategies to target diverse applicant pools.
(c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department managed social networking sites, if resources permit.
(d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.
(e) Employee referral and recruitment incentive programs,
(f) Consideration of shared or collaborative regional testing processes.

The Administrative Services Division shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The department should strive to facilitate and expedite the screening and testing process and should periodically inform each candidate of hes/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)
(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 the candidate’s unsuitability to perform duties relevant to the operation of the Cal Poly Pomona 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 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 Cal Poly Pomona Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

1000.5.3 NOTICES
Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.5.4 STATE NOTICES
If information disclosed in a candidate’s criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

1000.5.5 REVIEW OF SOCIAL MEDIA SITES
Due to the potential for accessing unsubstantiated, private, or protected information, the Administrative Services Division Lieutenant shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Administrative Services Division Lieutenant 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 Administrative Services Division Lieutenant should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.6 DOCUMENTING AND REPORTING
The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall 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).
1000.5.7 RECORDS RETENTION
The background report and all supporting documentation shall be maintained for a minimum of two years and in accordance with the established records retention schedule (Government Code § 12946; 11 CCR 1953).

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; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position’s essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Employee and Organizational Development and Advancement should maintain validated standards for all positions.

1000.7.1 STANDARDS FOR OFFICERS
Candidates shall meet the minimum standards established by POST (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

(a) Free of any felony convictions
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(b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship
(c) At least 18 years of age
(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) 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)

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

1000.7.2 STANDARDS FOR DISPATCHER
Candidates shall satisfy the POST selection requirements, including (11 CCR 1956):
   (a) A verbal, reasoning, memory, and perceptual abilities assessment (11 CCR 1957)
   (b) An oral communication assessment (11 CCR 1958)
   (c) A medical evaluation (11 CCR 1960)

1000.8 PROBATIONARY PERIODS
The Administrative Services Division Lieutenant should coordinate with the Cal Poly Pomona Employee and Organizational Development and Advancement 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.
Reporting of Employee Convictions

1001.1 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.

1001.2 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.

1001.3 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 contendre 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.

1001.4 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
Reporting of Employee Convictions

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.

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.

1001.5 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. Each employee 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 as a part of their 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.

1001.5.1 NOTIFICATION REQUIREMENTS
The Administrative Services Supervisor shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

The Administrative Services Supervisor shall submit within 30 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).
Communicable Diseases

1002.1 PURPOSE AND SCOPE
This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

1002.1.1 DEFINITIONS
Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member’s position at the Cal Poly Pomona Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1002.2 POLICY
The Cal Poly Pomona 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.

1002.3 EXPOSURE CONTROL OFFICER
The Chief of Police will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

(a) 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).

(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).

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).

1002.4 EXPOSURE PREVENTION AND MITIGATION

1002.4.1 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.

(j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1002.4.2 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).

1002.5 POST EXPOSURE

1002.5.1 INITIAL POST-EXPOSURE STEPS
Members who experience an exposure or suspected exposure shall:

(a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).

(b) Obtain medical attention as appropriate.

(c) Notify a supervisor as soon as practicable.

1002.5.2 REPORTING REQUIREMENTS
The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

(a) Name and Social Security number of the member exposed

(b) Date and time of the incident

(c) Location of the incident

(d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)

(e) Work being done during exposure
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(f) How the incident occurred or was caused
(g) PPE in use at the time of the incident
(h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

1002.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT
Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

(a) Whether the member has been informed of the results of the evaluation.
(b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

1002.5.4 COUNSELING
The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

1002.5.5 SOURCE TESTING
Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed 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 Office of General Counsel to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

1002.6 CONFIDENTIALITY OF REPORTS
Medical information shall remain in confidential files and shall not be disclosed to anyone without the member’s written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

1002.7 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.
Personnel Complaints

1003.1 PURPOSE AND SCOPE
This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Cal Poly Pomona 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.

1003.2 POLICY
The Cal Poly Pomona 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.

1003.3 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.

1003.3.1 COMPLAINT CLASSIFICATIONS
Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Watch Commander is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Internal Affairs Unit, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Internal Affairs Unit, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.
1003.3.2 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.

1003.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1003.4.1 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 State facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1003.4.2 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 his/her statement at the time it is filed with the Department (Penal Code § 832.7).

1003.4.3 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).

1003.5 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.

1003.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1003.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

(a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.

1. The original complaint form will be directed to the Watch Commander of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.

2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Division Lieutenant or the Chief of Police, who will initiate appropriate action.

(b) Responding to all complainants in a courteous and professional manner.

(c) Resolving those personnel complaints that can be resolved immediately.

1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.

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 the Chief of Police are notified via the chain of command as soon as practicable.

(e) Promptly contacting the Employee and Organizational Development and Advancement 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.
Personnel Complaints

(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.

1003.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Internal Affairs Unit, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

(a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.

(b) Unless waived by the member, interviews of an accused member shall be at the Cal Poly Pomona Police Department or other reasonable and appropriate place.

(c) No more than two interviewers should ask questions of an accused member.

(d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.

(e) All interviews shall be for a reasonable period and the member’s personal needs should be accommodated.

(f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.

(g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

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
Personnel Complaints

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).

1003.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be completed by the assigned personnel in a timely and professional manner, using the below format. The completed investigation shall be provided to the appropriate manager for review and recommendations.

Introduction - Provide a brief summary of the facts giving rise to the investigation.

Complaint/ - As stated by the complainant, witness or involved party.

Investigative Background - Investigation shall be completed following guidelines set in investigative relative policies, the Police Officers Bill of Rights (if applicable) and all applicable Collective Bargaining Agreements and University policies. The investigation should include all statements.

Attachments - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.
1003.6.4 ADMINISTRATIVE INVESTIGATION REVIEW FORMAT

Formal investigations of personnel complaints shall be reviewed by the appropriate manager for thoroughness and evidence to unfound, exonerate, sustain or not sustain the allegations. This will be captured in a memorandum with the following format:

**Summary** - Provide a brief summary of the facts giving rise to the investigation. Include the identity of the members involved, the identity of the assigned investigators, and a brief timeline of the investigation, beginning with the initial date and source of the complaint.

**Allegations** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation.

**Findings** - 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.

**Analysis** - An examination of the investigation leading to the findings, to include evidence related to each allegation.

**Recommendation** - A recommendation for disposition for each allegation.

If the investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the reviewing manager shall take appropriate action with regard to any additional allegations.

1003.6.5 DISPOSITIONS

It shall be the role of the Chief of Police to classify each personnel complaint 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.
1003.6.6 COMPLETION OF INVESTIGATIONS
Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

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.

1003.6.7 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS
The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1003.7 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.

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).

1003.7.1 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

1003.8 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.
1003.9 CRIMINAL INVESTIGATION
Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Cal Poly Pomona 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.

1003.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES
Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

1003.10.1 MANAGER RESPONSIBILITIES
Upon receipt of any completed personnel investigation, the Division Lieutenant of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Lieutenant may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Division Lieutenant may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Lieutenant 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.

1003.10.2 CHIEF OF POLICE RESPONSIBILITIES
Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Lieutenant for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the
event disciplinary action is proposed, the Chief of Police shall provide the member with a pre-disciplinary procedural due process hearing *(Skelly)* by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the member with:

(a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.

2. If the member elects to respond orally, the presentation may be recorded by the Department. 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.

1003.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT
The Chief of Police or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

1003.10.4 NOTICE REQUIREMENTS
The disposition of any civilian’s complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

1003.11 PRE-DISCIPLINE EMPLOYEE RESPONSE
The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

(a) The response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
(c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.

(d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

(e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

1003.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE
In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1003.13 POST-DISCIPLINE APPEAL RIGHTS
Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a Brady list or is otherwise subject to Brady restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such Brady evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

1003.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS
At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.
Personnel Complaints

1003.15 RETENTION OF PERSONNEL INVESTIGATION FILES
All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.
Seat Belts

1004.1 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).

1004.1.1 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.

1004.2 POLICY
It is the policy of the Cal Poly Pomona Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1004.3 WEARING OF SAFETY RESTRAINTS
All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

1004.4 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).
Seat Belts

1004.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES
Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1004.6 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.

1004.7 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.

1004.8 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.
Body Armor

1005.1 PURPOSE AND SCOPE
The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1005.2 POLICY
It is the policy of the Cal Poly Pomona 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.

1005.3 ISSUANCE OF BODY ARMOR
The Administrative Services manager shall ensure that body armor is issued to all officers when the officer begins service at the Cal Poly Pomona Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administrative Services manager shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1005.3.1 USE OF SOFT BODY ARMOR
Generally, the use of body armor is required subject to the following:

(a) Officers shall only wear agency-approved body armor.
(b) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
(c) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
(d) Body armor shall be worn when an officer is working in uniform or taking part in Department range training.
(e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

1005.3.2 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
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armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

1005.3.3 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.

1005.4 RANGEMASTER RESPONSIBILITIES
The Rangemaster should:

(a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.

(b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.

(c) Provide training that educates officers about the safety benefits of wearing body armor.
Personnel Records

1006.1 PURPOSE AND SCOPE
This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1006.1 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS
Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief of Police or the Internal Affairs Unit supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(2)):

- 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, or 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)(7) or other law, the following records shall be made available for public inspection upon request (Penal Code § 832.7):

(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.

(b) Records relating to an incident where a sustained finding (see the Personnel Complaints Policy) was made by the department or oversight agency regarding:
Personnel Records

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 sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

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)(3)).

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)(4) against the officer. 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 sustained finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(4)).

1006.1.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of records made available for release (Penal Code § 832.7(b)(5)):

(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 complainants 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 misconduct and serious 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)(6)).

1006.1.2 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):
Personnel Records

(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 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 use of serious force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, 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)(7)).

1006.1.3 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 records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury 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 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 used the force.

(b) Filed criminal charges

   1. When charges are filed related to an incident where 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
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1. Disclosure may be delayed until whichever occurs later:
   (a) There is a determination from the investigation whether the use of force violated law or department policy, but no longer than 180 days after the date of the department’s discovery of the use of force or allegation of use of force

   (b) Thirty days after the close of any criminal investigation related to the officer’s use of force

1006.2 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).

1006.3 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 maintained.

   (e) Discipline records, including copies of sustained personnel complaints.

       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 two years (Government Code § 26202; Government Code § 34090).

       2. Disciplinary action resulting from a sustained civilian’s complaint 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).

       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.

1006.4 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.

1006.5 TRAINING FILE
An individual training file shall be maintained by the Training and Operations Specialist 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 and Operations Specialist or immediate supervisor with evidence of completed training/education in a timely manner.

(b) The Training and Operations Specialist or supervisor shall ensure that copies of such training records are placed in the member’s training file.

1006.6 INTERNAL AFFAIRS FILE
Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Internal Affairs Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member’s file but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) Exonerated
Investigation files arising out of civilian’s complaints shall be maintained pursuant to the established records retention schedule and for a period of at least five 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 two years (Government Code § 26202; Government Code § 34090).

**1006.7 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.

**1006.8 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 Vice President for Administrative Affairs, Office of General Counsel or other attorneys or representatives of the State in connection with official business.

**1006.8.1 REQUESTS FOR DISCLOSURE**
Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).
The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member’s personnel records shall be logged in the corresponding file.

1006.8.2 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).

1006.11 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS
Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member’s request and the written response from the Department shall be retained with the contested item in the member’s corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

(a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.

(b) Confidential portions of internal affairs files that have not been sustained against the member.

(c) Criminal investigations involving the member.

(d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.

(e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.

(f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments,
Personnel Records

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.

1006.11 RETENTION AND PURGING
Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

(a) During the preparation of each member’s performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member’s performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.

(b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.

(c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.
Lactation Break Policy

1009.1 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).

1009.2 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).

1009.3 LACTATION BREAK TIME
A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; Labor Code § 1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee’s regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030). Employees desiring to take a lactation break shall notify the Dispatch Center 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.

1009.4 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.
Lactation Break Policy

1009.5 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.

1009.5.1 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).
Occupational Disease and Work-Related Injury Reporting

1011.1 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.

1011.1.1 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.).

1011.2 POLICY
The Cal Poly Pomona 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.).

1011.3 RESPONSIBILITIES

1011.3.1 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).

1011.3.2 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 Statewide 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.

1011.3.3 DIVISION LIEUTENANT RESPONSIBILITIES
The Division Lieutenant who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police, the State’s risk management entity, and the Administrative Services Division Lieutenant to ensure any required Division of Occupational Health and Safety Administration (Cal/OSHA) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.
1011.3.4 CHIEF OF POLICE RESPONSIBILITIES
The Chief of Police shall review and forward copies of the report to the Employee and Organizational Development and Advancement. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

1011.4 OTHER DISEASE OR INJURY
Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Division Lieutenant through the chain of command and a copy sent to the Administrative Services Division Lieutenant.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1011.5 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 ensure that the offered settlement will not affect any claim the State may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, or the State's right of subrogation.
Personal Appearance Standards

1012.1 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.

1012.2 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.

1012.2.1 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.

1012.2.2 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.

1012.2.3 SIDEBURNS
Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1012.2.4 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.

1012.2.5 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.

1012.2.6 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.
(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.

1012.3 TATTOOS
While on-duty or representing the Department in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

1012.4 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.

1012.5 EXEMPTIONS
Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.
Uniform Regulations

1013.1 PURPOSE AND SCOPE
The uniform policy of the Cal Poly Pomona 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 Cal Poly Pomona 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.

1013.2 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.
Uniform Regulations

(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

1013.2.1 DEPARTMENT ISSUED IDENTIFICATION
The Department issues each employee an official department identification card bearing the employee’s name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

(a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.

(b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Lieutenant.

1013.3 UNIFORM CLASSES

1013.3.1 CLASS A UNIFORM
The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all sworn personnel. The Class A uniform includes the standard issue uniform with:

(a) Long sleeve shirt with tie
(b) Black crew neck t-shirt
(c) Black tie
(d) Gold metal tie bar
(e) Brushed gold metal name tag
(f) Polished shoes or boots (steel or pointed toe boots are not permitted)
(g) Black socks
(h) Leather duty belt or faux leather duty belt with the following items
   1. Duty weapon
   2. Magazine pouch
   3. Belt keepers
Uniform Regulations

4. Single handcuff case
   (i) A dress cap/hat may be worn depending on the event

Additional equipment may be added to the Class A duty belt for special events. The additional equipment will be authorized at the discretion of the supervisor in charge of the event.

1013.3.2 CLASS B UNIFORM
All officers will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

(a) The long or short sleeve shirt may be worn with the collar open. No tie is required
(b) A black crew neck t-shirt must be worn with the uniform
(c) All shirt buttons must remain buttoned except for the last button at the neck

1013.3.3 CLASS C UNIFORM
Optional Class C uniform is intended for personnel assigned to a special detail or assignment. This uniform may be worn only after approval from the Chief of Police or designee.

(a) Shirt - 5.11 Tactical snag-free performance long or short sleeve polo, black in color
   1. Cloth badge
   2. Name embroidered in silver/gray
   3. "POLICE" stenciled in 21/2' silver/gray letters on back.
   4. Department shoulder patch on both shoulders.
   5. Sergeant or Corporal chevrons on both sleeves, 5/8 below bottom tip of department patch
(b) Pants - 5.11 Stryke PDU Class B Cargo Pants, black in color

1013.3.4 SPECIALIZED UNIT UNIFORMS
The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Bicycle Patrol, Canine Team, SWAT, Bicycle Patrol, Motor Officers and other specialized assignments.

Bicycle Patrol

(a) Shirt - Officers shall wear the same polo uniform shirt described in the Class C Uniform standards
(b) Pants - 5.11 Tactical Bike Patrol pants, black in color

1013.3.5 FOUL WEATHER GEAR
The Uniform and Equipment Specifications lists the authorized uniform jacket and rain gear.
The wearing of approved UPD baseball hat is limited to the following situations:

(a) When it is raining
(b) During severe heat conditions caused by sunlight
(c) When assigned to a post during daylight hours without shade, for an extended period of time.

Authorized UPD baseball hat shall be black in color, with the word “POLICE” in Block 2 font, 1.24” tall, and 91% letter with. Lettering shall be in white. All baseball hats shall be approved by the Chief of Police or designee.

1013.4 INSIGNIA AND PATCHES

(a) Shoulder Patches - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, three-quarters of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.

(b) Service stripes, stars, etc. - Service stripes and other indicators for length of service may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn the width of one and one-half inches above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only.

(c) The regulation nameplate, or an authorized sewn on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall display the employee's first and last name. If an employee's first and last names are too long to fit on the nameplate, then the initial of the first name will accompany the last name. If the employee desires other than the legal first name, the employee must receive approval from the Chief of Police. The nameplate shall be worn and placed above the right pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.

(d) When a jacket is worn, the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform.

(e) Assignment Insignias - Assignment insignias, (SWAT, FTO, etc.) may be worn as designated by the Chief of Police.

(f) Flag Pin - A flag pin may be worn, centered above the nameplate.

(g) Badge - The department issued badge, or an authorized sewn on cloth replica, must be worn and visible at all times while in uniform.

(h) Rank Insignia - The designated insignia indicating the employee’s rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.

1013.4.1 MOURNING BADGE

Uniformed employees shall wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:
Uniform Regulations

(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.

1013.5 CIVILIAN ATTIRE
There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

(a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.
(b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button style shirts with a collar, slacks or suits that are moderate in style.
(c) All female administrative, investigative, and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.
(d) The following items shall not be worn on duty:
   1. T-shirt alone
   2. Open toed sandals or thongs
   3. Swimsuit, tube tops, or halter-tops
   4. Spandex type pants or see-through clothing
   5. Distasteful printed slogans, buttons or pins
(e) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee’s assignment or current task is not conducive to the wearing of such clothing.
(f) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Cal Poly Pomona Police Department or the morale of the employees.

1013.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS
Unless specifically authorized by the Chief of Police, Cal Poly Pomona 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 Cal Poly Pomona Police Department to do any of the following (Government Code §§ 3206 and 3302):

(a) Endorse, support, oppose, or contradict any political campaign or initiative.
Uniform Regulations

(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.

1013.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

(a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.

(b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.

(c) Replacement of items listed in this order as optional shall be done as follows:
   1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
   2. When the item is no longer functional because of damage in the course of the employee’s duties, it shall be replaced following the procedures for the replacement of damaged personal property (see the Department Owned and Personal Property Policy).

1013.7.1 RETIREE BADGES

The Chief of Police may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Cal Poly Pomona Police Department. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Officer CCW Endorsement Policy in this manual.

A badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words “Honorably Retired” clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the Cal Poly Pomona Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

1013.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Cal Poly Pomona 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.

Cal Poly Pomona 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.
Department Badges

1015.1 PURPOSE AND SCOPE
The Cal Poly Pomona Police Department badge and uniform patch as well as the likeness of these items and the name of the Cal Poly Pomona Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1015.2 POLICY
The uniform badge shall be issued to department members as a symbol of authority and the use and display of department 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.

1015.2.1 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 department policy as the uniform badge.

(a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Cal Poly Pomona 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.

1015.2.2 CIVILIAN PERSONNEL
Badges and department 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.
Department Badges

1015.2.3 RETIREE UNIFORM BADGE
Upon honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

1015.3 UNAUTHORIZED USE
Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and civilian uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

1015.4 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 Cal Poly Pomona 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.
Employee Speech, Expression and Social Networking

1017.1 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.

1017.1.1 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.

1017.2 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 Cal Poly Pomona 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.

1017.3 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 Cal Poly Pomona 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 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.

1017.4 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 Cal Poly Pomona 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 Cal Poly Pomona Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Cal Poly Pomona 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 Cal Poly Pomona 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.
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 Cal Poly Pomona 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).

1017.4.1 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 Cal Poly Pomona Police Department or identify themselves in any way that could be reasonably perceived as representing the Cal Poly Pomona 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 Cal Poly Pomona Police Department.
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).

1017.5 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).

1017.6 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.

1017.7 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.
Illness and Injury Prevention

1018.1 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 Cal Poly Pomona 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 Statewide safety efforts.

1018.2 POLICY
The Cal Poly Pomona 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.

1018.3 ILLNESS AND INJURY PREVENTION PLAN
The Administrative Services Division Lieutenant 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.
Illness and Injury Prevention

(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).

1018.4 ADMINISTRATIVE SERVICES DIVISION LIEUTENANT RESPONSIBILITIES
The responsibilities of the Administrative Services Division Lieutenant 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.
Illness and Injury Prevention

(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.

1018.5 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 Administrative Services Division Lieutenant.

(e) Notifying the Administrative Services Division Lieutenant 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.

1018.6 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.
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 Administrative Services Division Lieutenant via the chain of command.

The Administrative Services Division Lieutenant will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

1018.7 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 Administrative Services Division Lieutenant shall ensure that the appropriate documentation is completed for each inspection.

1018.7.1 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.

1018.8 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.
1018.9 TRAINING
The Administrative Services Division Lieutenant should work with the Training and Operations Specialist 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.

1018.9.1 TRAINING TOPICS
The Training and Operations Specialist 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.

1018.10 RECORDS
Records and training documentation relating to illness and injury prevention will be maintained in accordance with the established records retention schedule.
Line-of-Duty Deaths

1019.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidance to members of the Cal Poly Pomona 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.

1019.1.1 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 civilian 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.

1019.2 POLICY
It is the policy of the Cal Poly Pomona 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.

1019.3 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 the Dispatch Center.
   
   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 Assistant Vice President of Strategic Communications 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.
Line-of-Duty Deaths

(d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

1019.4 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.
Line-of-Duty Deaths

(i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.

(j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department 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 Cal Poly Pomona Police Department members may be apprised that survivor notifications are complete.

1019.4.1 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.

1019.5 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 group, 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.
1019.6 LIAISONS AND COORDINATORS
The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

(a) Department Liaison.
(b) Hospital Liaison.
(c) Survivor Support Liaison.
(d) Critical Incident Stress Management (CISM) coordinator.
(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.

1019.6.1 DEPARTMENT LIAISON
The Department Liaison should be a Division Lieutenant 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.
Line-of-Duty Deaths

(i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

1019.6.2 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 Cal Poly Pomona 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.

1019.6.3 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 Division Lieutenant. 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 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 CISM coordinator to ensure that survivors have access to available counseling services.

(h) Coordinating with the department’s Assistant Vice President of Strategic Communications (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 Assistant Vice President of Strategic Communications section of this policy).

(i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.
Line-of-Duty Deaths

(j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.

(k) Introducing survivors to prosecutors, victim’s assistance personnel and other involved personnel as appropriate.

(l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).

(m) Inviting survivors to department 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.

1019.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief of Police or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the CISM coordinator 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 CISM 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 CISM support as appropriate and possible.

(c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) 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 CISM and counseling services and assisting with arrangements as needed.
Line-of-Duty Deaths

(e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

1019.6.5 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.

1019.6.6 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 Cal Poly Pomona Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Mutual Aid and Outside Agency Assistance Policy.
1019.6.7 BENEFITS LIAISON
The Benefits Liaison should provide survivors with information concerning available benefits and assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

(a) Confirming the filing of workers’ compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).

(b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
   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.
   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.

1019.6.8 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:
Line-of-Duty Deaths

(a) Establishing methods for purchasing and monitoring costs related to the incident.
(b) Providing information on finance-related issues, such as:
   1. Paying survivors’ travel costs if authorized.
   2. Transportation costs for the deceased.
   3. Funeral and memorial costs.
   4. Related funding or accounting questions and issues.
(c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member’s survivors.
(d) Providing accounting and cost information as needed.

1019.7 ASSISTANT VICE PRESIDENT OF STRATEGIC COMMUNICATIONS
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.
Line-of-Duty Deaths

1019.8 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.

1019.9 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.

1019.10 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.

1019.11 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.
EO-1095.pdf
June 23, 2015

MEMORANDUM

TO: CSU Presidents

FROM: Timothy P. White
Chancellor

SUBJECT: Systemwide Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking Policy
Executive Order 1095 Revised June 23, 2015

Attached is a copy of Executive Order 1095 Revised June 23, 2015 – relating to implementation of Title IX, the Campus SaVE Act, and related legislation on sex discrimination, sexual harassment and sexual violence. Executive Order 1095 Revised June 23, 2015 supersedes Executive Order 1095 Effective June 3, 2014.

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

If you have questions regarding this executive order, please call Equal Opportunity and Compliance at (562) 951-4400.

TPW/lh

Attachments

c: CSU Office of the Chancellor Leadership
Provosts
Vice Presidents, Administration and Finance
Vice Presidents, Student Affairs
DHR Administrators
Human Resources Officers
Title IX Coordinators
Executive Order 1095
Revised June 23, 2015

THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore
Long Beach, California 90802-4210
(562) 951-4400

Executive Order: 1095 Revised June 23, 2015
Effective Date: June 23, 2015
Supersedes: Executive Order 1095 Effective June 3, 2014
Title: Systemwide Sex Discrimination, Sexual Harassment, Sexual Misconduct,
Dating and Domestic Violence, and Stalking Policy

The California State University (CSU) is committed to creating and sustaining an educational
and working environment free of Sex Discrimination, Sexual Harassment, Sexual Misconduct,
Dating and Domestic Violence, and Stalking. The safety and well-being of our Campus
communities is a priority for the University.

This Executive Order, and Executive Orders 1096, 1097 and 1098, provide direction on
implementing Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.); the
Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery
Disclosure of Campus Security and Campus Crimes Statistics Act, commonly known as the
Clery Act) (20 U.S.C. 1092(f)); Title IV of the 1964 Civil Rights Act (42 U.S.C. § 2000c et seq.);
the California Equity in Higher Education Act (Cal. Educ. Code § 66250 et seq.); the California
Donahoe Higher Education Act (Cal. Educ. §§ 66000 et seq.); and the Governor's California
Campus Blueprint to Address Sexual Assault, among other applicable state and federal laws and
related regulations.

Legislative Requirements

Title IX is a federal law that applies to educational institutions receiving federal financial
assistance and prohibits discrimination on the basis of sex in an educational institution's
programs or activities, including employment, academic, educational, extracurricular and athletic
activities (both on and off Campus). Title IX protects all people regardless of their Gender,
Sexual Orientation, or Gender Identity or Expression, from Sex Discrimination, including Sexual
Harassment and Sexual Misconduct, which are forms of Sex Discrimination. Title IX requires
institutions to take necessary steps to prevent Sex Discrimination on their Campuses, and to
respond promptly and effectively when Sex Discrimination is reported. The Clery Act requires
colleges and universities to report annual statistics on crime, including Sexual Assault and Rape,
on or near their Campuses, and to develop and disseminate prevention policies. VAWA/Campus

1 These and other key capitalized terms are defined in Executive Orders 1096 and 1097. Terms contained within
this Executive Order are intended to be gender neutral.
SaVE Act provides that Dating and Domestic Violence, and Stalking must be included in Campus Clery reports, and also requires that institutional policies address and prevent Sexual Misconduct, Dating and Domestic Violence, and Stalking through training, education, and certain discipline procedures. 2 California Education Code § 67386 requires other institutional policies, including the adoption of an Affirmative Consent standard in assessing Sexual Misconduct. The California Equity in Higher Education Act prohibits discrimination based on any Protected Status, including Gender or Sex, in all postsecondary institutions in the state. California Education Code § 67385.7 et seq. requires the CSU to provide educational and preventive information about Sexual Misconduct to Students. The California Campus Blueprint to Address Sexual Assault provides guidance on steps that can be taken to improve individual Campus responses to sexual violence. 3

Together, these laws require CSU Campuses to (1) publish and widely disseminate a Notice of Nondiscrimination on the Basis of Gender or Sex; (2) designate one Employee to coordinate Title IX compliance (including compliance with VAWA/Campus SaVE Act, and all other relevant Sexual Discrimination/Harassment/Misconduct legislation); (3) adopt appropriate complaint and investigation procedures; (4) implement education and prevention programs for Students and Employees, as well as victim resource programs for victims of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking; (5) provide written rights and options information to victims of Sexual Misconduct; (6) provide training to the Campus community on how to prevent, identify and report Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking; (7) provide training on how to conduct investigations to those Employees who investigate such allegations of Sexual Misconduct; and (8) provide training to student conduct Hearing Officers.

Confidentiality and Duty to Report

The University encourages victims of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking to talk to someone about what happened – so they can get the support they need, and so the University can respond appropriately. Whether – and the extent to which – a University Employee may agree to maintain confidentiality (and not disclose information to the Title IX Coordinator) depends on the Employee’s position and responsibilities at the University. The following information is intended to make persons aware of the various reporting and confidential disclosure options available so that everyone can make informed choices. The University strongly encourages victims to talk to someone identified in one or more of these groups.

Certain University Employees, described below, are required by law to maintain near or complete confidentiality; talking to them is sometimes called a “privileged communication.”

University Police, the Title IX Coordinator, University-employed physicians, professional counselors, sexual assault and domestic violence counselors and advocates, and certain other

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2 Clery reporting and discipline procedures are addressed in other systemwide policy communications.
University Employees are required to explain to persons reporting Sexual Misconduct, Dating or Domestic Violence, or Stalking their rights and options with respect to confidentiality.

Privileged and Confidential Communications

_Physicians, Psychotherapists, Professional Counselors, Licensed Clinical Social Workers, and Clergy_ – Physicians, psychotherapists, professional licensed counselors, licensed clinical social workers, and clergy who work or volunteer on or off Campus, who provide medical or mental health treatment or counseling and are acting in that role as part of their employment (and those who act under their supervision, including all individuals who work or volunteer in these centers and offices) may not report any information about an incident of Sexual Misconduct, Dating or Domestic Violence or Stalking to anyone else at the University, including the Title IX Coordinator, without the victim’s consent. A person can seek assistance and support from physicians, psychotherapists, professional licensed counselors, licensed clinical social workers, and clergy without triggering a University investigation that could reveal the person’s identity or the fact of the person’s disclosure. However, see limited exceptions below regarding when these practitioners must report to local law enforcement agencies. These practitioners should explain these limited exceptions, if applicable.

_Sexual Assault and Domestic Violence Counselors and Advocates_ – Sexual assault and domestic violence counselors and advocates who work or volunteer on or off Campus in sexual assault centers, victim advocacy offices, women’s centers, gender equity centers, and health centers and who are acting in that role (including all individuals who work or volunteer in these centers and offices, as well as non-professional counselors or advocates, and those who act in that role under their supervision) may talk to a victim of Sexual Misconduct, Dating or Domestic Violence, or Stalking without revealing any information about the victim and the incident to anyone else at the University, including the Title IX Coordinator and law enforcement (police), without the victim’s consent. A victim can seek assistance and support from these counselors and advocates without triggering a University investigation or a law enforcement (police) investigation that could reveal his/her identity or that a victim disclosed an incident to them. However, see limited exceptions below regarding when sexual assault and domestic violence counselors and advocates must report to local law enforcement agencies. Counselors and advocates should explain these limited exceptions to victims, if applicable.

_Union Representatives_ -- A CSU employee/union representative is not required to report a possible violation of Executive Orders 1095, 1096 or 1097 if the information is provided to the union representative, acting in that role, in a confidential setting by a union member seeking advice about a possible violation or representation in a matter within the scope of representation. However, CSU employee/union representatives are **strongly encouraged** to report the information to the DHR Administrator or Title IX Coordinator.

The University will be unable to conduct an investigation into a particular incident or pursue disciplinary action if a victim chooses to: (1) speak only to a physician, professional counselor,

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4 See Cal. Evid. Code § 990 et seq., § 1010 et seq., and § 1030 et seq.
clergy member, sexual assault counselor, domestic violence counselor or advocate; and, (2) maintain complete confidentiality. Even so, these individuals will assist victims in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services, and will advise victims regarding their right to file a complaint with the University and a separate complaint with local or University police. If a victim insists on confidentiality, such professionals, counselors, and advocates may not be able to assist with: University academic support or accommodations; changes to University-based living or working schedules; or adjustments to course schedules. A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to the police, and thus have the incident fully investigated. These counselors and advocates can provide victims with that assistance if requested as well as explain that University policy and the law include protections against retaliation. They should also explain that the University will not only take steps to prevent retaliation when it knows or reasonably should know of possible retaliation, but will also take strong responsive action if retaliation occurs.

EXCEPTIONS: Under California law, any health practitioner employed in a health facility, clinic, physician’s office, or local or state public health department or clinic is required to make a report to local law enforcement if he or she provides medical services for a physical condition to a person who he or she knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury where the injury is the result of assaultive or abusive conduct (including Rape, Sexual Assault, and Dating and Domestic Violence).6 This exception does not apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception, if applicable.

Additionally, under California law, all professionals described above (physicians, psychotherapists, professional counselors, clergy, and sexual assault and domestic violence counselors and advocates) are mandatory child abuse and neglect reporters, and are required to report incidents involving victims under 18 years of age to local law enforcement.7 These professionals will explain this limited exception, if applicable.

Finally, some or all of these professionals may also have reporting obligations under California law to: (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger;8 or (2) to the court if compelled by court order or subpoena in a criminal proceeding related to Sexual Misconduct, Dating or Domestic Violence, or Stalking.9 If applicable, these professionals will explain this limited exception.

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6 Assaultive or abusive conduct is defined to include a list of 24 criminal offenses, including Sexual Battery, incest, Rape, spousal Rape, abuse of a spouse or cohabitant, and any attempt to commit these crimes. See Cal. Penal Code §§ 11160-11163.2.
7 See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.
Reporting to University or Local Police

If a victim makes a report of a sex offense as enumerated in California Government Code § 6254(f)(2) to local or University Police, the police are required to notify the victim that his/her name will become a matter of public record unless confidentiality is requested. If a victim requests that his/her identity be kept confidential, his/her name will not become a matter of public record and the police will not report the victim’s identity to anyone else at the University, including the Title IX Coordinator. University Police will, however, report the facts of the incident itself to the Title IX Coordinator being sure not to reveal to the Title IX Coordinator the victim’s name/identity, or compromise their own criminal/police investigation. The University is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while the University will report the type of incident in the annual crime statistics report known as the Annual Security Report, victim names/identities will not be disclosed. Likewise, the University is required by state law to report certain types of crimes to local law enforcement (including certain sex offenses). However, the victim’s identity may not be disclosed to local law enforcement unless the victim consents after being informed of his/her right to have identifying information withheld. If a victim does not consent, the alleged assailant’s identity may also not be disclosed to local law enforcement.

Reporting to the Title IX Coordinator and Other University Employees

Most University Employees have a duty to report Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking incidents when they are on notice of them. When a victim tells the Title IX Coordinator or another University Employee about a Sexual Misconduct, Dating or Domestic Violence, or Stalking incident, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. In all cases, the University strongly encourages victims to report Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking incidents directly to the Campus Title IX Coordinator.

As detailed above in the Privileged and Confidential Communications section of this policy, all University Employees except physicians, licensed counselors, sexual assault counselors and advocates, and their staffs must report to the Title IX Coordinator all known details about any Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking incidents of which they become aware. The University will need to determine what happened – and will need to know the names of the person(s) involved, any witnesses, and any other relevant facts, including the date, time and specific location of the incident.

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10 See Cal. Penal Code § 293; Cal. Gov. Code § 6254(f)(2)(“The name of a victim of any crime defined by § 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor.”)
To the extent possible, information reported to the Title IX Coordinator or other University Employees will be shared only with individuals responsible for handling the University’s response to the incident. The University will protect the privacy of individuals involved in the incident except as otherwise required by law or University policy. A Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking report may result in the gathering of extremely sensitive information about individuals in the Campus community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report. In such cases, efforts will be made to redact the records, as appropriate, in order to protect the victim’s identity and privacy and the privacy of other involved individuals. Except as detailed in the section on Privileged and Confidential Communications above, no University Employee, including the Title IX Coordinator, should disclose the victim’s identity or the facts of the incident to the police without the victim’s consent or unless the victim has also reported the incident to the police.

If a victim requests of the Title IX Coordinator or another University Employee that his/her identity remain completely confidential, the Title IX Coordinator or University Employee will explain that the University cannot always honor that request and guarantee complete confidentiality. If a victim wishes to remain confidential or request that no investigation be conducted or disciplinary action taken, the University must weigh that request against the University’s obligation to provide a safe, non-discriminatory environment for all Students, Employees and Third Parties, including the victim requesting confidentiality. Under those circumstances, only the Title IX Coordinator will determine whether the victim’s request for complete confidentiality and/or no investigation can be honored under the facts and circumstances of the particular case, including whether the University has a legal obligation to report the incident, conduct an investigation or take other appropriate steps. Without information about a victim’s identity, the University’s ability to meaningfully investigate the incident and pursue disciplinary action against a perpetrator may be severely limited.

The Title IX Coordinator will inform the victim of the initiation of an investigation prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University’s response to the incident. The Title IX Coordinator will remain mindful of the victim’s well-being, and will take ongoing steps, as warranted and appropriate, to protect the victim from retaliation or harm, and work with the victim to create a safety plan. Retaliation against persons reporting misconduct, whether by Students, Employees or Third Parties, will not be tolerated. The University and Title IX Coordinator will also:

- Provide Interim Remedies requested by the victim, if they are reasonably available, regardless of whether the victim chooses to report the incident to Campus or local police;
- Assist victims in accessing available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off Campus;
- Provide security and support, which could include issuing a no-contact order, helping arrange a change of Campus-based living or working arrangements or course schedules...
(including for the Respondent pending the outcome of the investigation), or adjustments for assignments, tests, or work duties; and

- Inform victims of their right to report a crime to University or local police – and provide assistance if desired.

The University will not require a victim who reports Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking to participate in any investigation or disciplinary proceeding if the victim does not wish to participate.

The University will not generally notify parents or legal guardians of a Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence or Stalking report unless the victim is under 18 years old or the person provides the University with written permission to do so.\textsuperscript{12}

Under California law, and pursuant to University policy, certain University Employees, including the Title IX Coordinator, are mandatory child abuse and neglect reporters and should explain to victims under 18 years of age that they may be required to report the Sexual Misconduct, Dating or Domestic Violence, or Stalking incident to the police.\textsuperscript{13} However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.\textsuperscript{14}

Because the University may be required to address the issue of Sex Discrimination, Sexual Harassment, Sexual Misconduct Dating or Domestic Violence, or Stalking Campus-wide, reports (including non-identifying reports) may also require the University to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported incident occurred; increased education, training and prevention efforts, including to targeted population groups; climate assessments/victimization surveys; and/or revision of policies and practices.

The Office of the Ombuds, if available on a specific Campus, provides confidential, neutral, and informal dispute resolution services, provides information about University policies and procedures, and makes referrals. However, in Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking cases, the Ombuds must report incidents to the Title IX Coordinator.

\textbf{NOTE:} If the University determines that the Respondent poses a serious and immediate threat to the Campus community, a designated Campus Security Authority under the Clery Act may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the victim.

\textsuperscript{12} If there is a health and safety issue (e.g., immediate threat to self or others), the University may notify parents or legal guardians, regardless of the victim’s age, as allowed under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).

\textsuperscript{13} See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.

\textsuperscript{14} See Cal. Penal Code § 11167(d).
Notice of Nondiscrimination on the Basis of Gender or Sex

Each CSU Campus is required to post a Notice of Nondiscrimination on the Basis of Gender or Sex prominently on its website. The Notice must also be: (1) posted at Campus locations where other notices regarding Campus policies are posted, as well as published in electronic and printed publications of general distribution that provide information to Students and Employees about the University’s services and policies; and, (2) distributed to all Employees and all Students at the beginning of the fall term every academic year (no earlier than two weeks before and no later than two weeks after the first day of classes.) Distribution may be electronic.

The Notice must contain specific information, including contact information for the U.S. Department of Education, Office for Civil Rights, and the Campus Title IX Coordinator, as well as any Deputy Title IX Coordinator(s).

Attachment A is the Notice of Nondiscrimination on the Basis of Gender or Sex form Campuses shall make available in the manner described above. Aside from inserting information regarding Campus administrators and on and off Campus/local resources where indicated on the form, Campuses shall not make any other changes to the Notice. The Notice must identify the Campus Title IX Coordinator and any Deputy Title IX Coordinator(s), and their respective roles and responsibilities on Campus.\(^{15}\)

Notice of Rights and Options for Victims of Sexual Misconduct, Dating or Domestic Violence or Stalking

A written explanation of rights and options must be provided to a Student, Employee or Third Party who reports to the University that s/he has been a victim of Sexual Misconduct, Dating or Domestic Violence, or Stalking, whether the offense occurred on or off Campus. It is the Title IX Coordinator’s responsibility to ensure this written Notice is provided to the complainant/victim(s).

Attachment C is the written explanation of Rights and Options for Victims of Sexual Misconduct, Dating or Domestic Violence, or Stalking form Campuses shall provide to Complainants/victims. Aside from inserting information regarding Campus administrators or local resources where indicated on the form, Campuses shall not make any other changes to the form.

Complaint Procedures

The CSU is required to adopt and publish complaint procedures that provide for prompt and equitable resolution of Sex Discrimination complaints, including Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking.

Complaints made by Employees, former Employees, and applicants for employment.

Executive Order 1096, entitled “Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against

\(^{15}\) See also Attachment B, Myths and Facts about Sexual Misconduct, which should be published and distributed alongside Attachment A, Notice of Nondiscrimination on the Basis of Gender or Sex.
Employees and Third Parties and *Procedure* for Addressing Such Complaints by Employees and Third Parties” is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking made by Employees and Third Parties against the CSU, another CSU Employee, a CSU Student or a Third Party. Employees covered by a collective bargaining agreement that provides a grievance procedure for raising allegations of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking shall use the grievance procedure specified in their collective bargaining agreement.

**Complaints made by Students.** Executive Order 1097, entitled "Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Students and Systemwide Procedure for Addressing Such Complaints by Students" is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking made by CSU Students against the CSU, a CSU Employee, another CSU Student, or a Third Party.

**Complaints made by Student-Employees.** Executive Order 1096 is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking made by Student-Employees where the alleged violation arose out of the person’s status as an Employee and not his/her status as a Student.

**Complaints made by Third Parties.** Executive Order 1096 is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking filed by Third Parties against the CSU, a CSU Employee or a CSU Student.

Regardless of whether an Employee, a Student or a Third Party ultimately files a complaint under the applicable complaint procedure, if a Campus knows or has reason to know about possible Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, it must review the matter to determine if an investigation is warranted. When warranted, all such investigations must be prompt, thorough and impartial, and shall comply with the procedure outlined in the relevant Executive Order. The Campus must then take appropriate steps to eliminate the misconduct, prevent its recurrence, and remedy its effects.

**Confidential Sexual Assault Victim’s Advocates**

**Designation and Appointment**

Each Campus is required to designate at least one confidential Sexual Assault Victim’s Advocate (Advocate). The Advocate should be a full-time Employee of the University or a recognized University auxiliary, whose primary responsibility is rendering advice and assistance to victims of Sexual Misconduct. The Advocate may also be appointed by way of a written agreement with a local community-based sexual violence service provider, such as a rape crisis center, to provide the services described herein. The Advocate shall be confidential, independent, and certified, as

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16 For purposes of this Executive Order, the term "Students" includes applicants for admission.
described below, and shall be appointed based on experience and a demonstrated ability to effectively provide sexual violence victim services and response.

Confidentiality

It is essential that the Advocate be an individual who has protection under state law to engage in privileged communications, as described below in the section on Certification.

While it would be appropriate for the Advocate to report to and be supervised by Campus Student counseling services or health services, Campus placement of the Advocate in a different division, department or office would be acceptable as long as the provisions of this section are followed.

Because of their confidential nature, Advocates are not required to report Sexual Misconduct incidents to the University (e.g., to the Title IX Coordinator) or to police without the written consent of the victim, unless an exception applies as described above.

Roles and Responsibilities

The Advocate will provide the emergency and ongoing support services and assistance outlined below in order to ensure the well-being and safety of victims. These services shall be available 24 hours a day.

- Advocate services need to be flexible, varied, and provided by well-trained, certified sexual assault counselors to address the variability of victim needs.

- The Advocate may accompany victims, at their request and with their permission, and be with them as a support person:

  - Throughout all stages of the University’s investigation and discipline proceedings, including acting as an Advisor at any related meeting or hearing.
  - When giving reports to or meeting with University Police, local law enforcement, the Title IX Coordinator, and any other University administrator related to a Sexual Misconduct complaint.
  - When going to medical/counseling appointments and treatments (including medical-forensic evidentiary examinations by a Sexual Assault Forensic Examiner).
  - When going to legal appointments and hearings in court or with legal representatives, including assistance with obtaining a restraining or other protective order.
When going to meetings and appointments with University personnel, including the Title IX Coordinator, regarding Interim Remedies (e.g., academic, employment, and housing).

The Advocate may assist victims, with their permission:

- In seeking reasonable and available Interim Remedies from the University, even where the victim has elected not to file a Complaint. Such reasonable and available Interim Remedies may include but not be limited to: academic support, adjustments/changes to course schedules, changes to University-based housing and work schedules, and stay away orders issued to the Respondent.
- With other related reasonable and available on and off Campus services that ensure their well-being and safety.

Regardless of whether victims wish to remain confidential, the Advocate shall carry out the following:

- Ensure victims, with their consent, receive information about 24 hour-a-day sexual violence assistance services:
  - Information on how to report to law enforcement and to the University’s Title IX Coordinator;
  - Emergency medical care, including follow-up medical care, as requested; and,
  - Medical forensic or evidentiary examinations.

- Ensure victims, with their consent, receive the following sexual assault assistance services:
  - Crisis intervention counseling and ongoing counseling;
  - Information on victim rights and options, including referrals to additional support services; and,
  - Information on legal services, and the availability of restraining and/or no-contact orders.

- Guide those who request assistance through the reporting, counseling, administrative, medical and health, academic accommodation, or legal processes of the University, University Police, and/or local law enforcement.
• Attend as an Advisor, at their request, any University adjudication proceeding related to the Sexual Misconduct. Assist with arranging transportation services, as appropriate. Maintain privacy and confidentiality.

• Regardless of whether victims wish to remain confidential, the Advocate shall not notify the University or any other authority, including law enforcement, of the identity of the victim or any witness or of the alleged circumstances surrounding the reported Sexual Misconduct unless otherwise required by applicable state or federal laws.

• Advocates may also serve on Campus-based Sexual Misconduct task force committees/teams to provide general advice and consulting, and to participate in prevention and awareness activities and programs. However, it would not be appropriate for the Advocate to discuss or communicate about confidential or private information related to specific victims.

• The Advocate may play an active role in assisting, coordinating, and collaborating with the Title IX Coordinator in developing and providing Campus-wide awareness and outreach activities, possibly including prevention activities.

• The Title IX Coordinator remains primarily responsible for all Campus-based prevention and awareness activities.

• All awareness outreach activities will comply and be consistent with University policies.

• Before initiating any awareness and outreach activities, the Advocate will partner and collaborate with the Title IX Coordinator to ensure the activities comply with CSU policy, and are consistent with Campus-based practices.

**Supervision**

To assure the independence and support needed for the Advocate to represent the interests of the victim independent of the University, the Advocate must report to and be supervised by an individual outside the office(s) handling the investigation and adjudication of Sexual Misconduct.
complaints. Thus, the Advocate may not be under the direct control or supervision of the University’s Title IX office, Student Conduct office, or Police Department.

If the Advocate is appointed by way of written agreement with a local community-based sexual violence service provider, such as a rape crisis center, supervision shall be provided by the outside service provider in accordance with the terms and conditions set forth in the written agreement.

**Certification**

If employed by the University, the Advocate shall be a person whose primary responsibilities are rendering advice and assistance to Sexual Misconduct victims. The Advocate must have received a certificate evidencing completion of a training program in the counseling of Sexual Assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to California Penal Code §13837 and who meets one of the following requirements:

1) Is a psychotherapist as defined in California Evidence Code § 1010; has a master’s degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling; or

2) Has 40 hours of training as described below and is supervised by an individual who qualifies as a psychotherapist or counselor under paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include but not be limited to the following areas:

- Law
- Medicine
- Societal attitudes
- Crisis intervention and counseling techniques
- Role playing
- Referral services
- Sexuality

Alternatively, the Advocate may be a person who is employed by any organization providing the programs specified in California Penal Code § 13835.2 for the purpose of counseling and assisting Sexual Assault victims, and who meets one of the following requirements:

1) Is a psychotherapist as defined in California Evidence Code § 1010; has a master’s degree in counseling or a related field; or has one year of counseling experience, at least six months of which is in rape crisis counseling; or

2) Has the minimum training for sexual assault counseling required by the guidelines established by the employing agency pursuant to California Penal Code § 13835.10(c), and is supervised by an individual who qualifies as a psychotherapist or counselor under
paragraph (1). The training, supervised by a person qualified under paragraph (1), shall include but not be limited to the following areas:

- Law
- Medicine
- Societal attitudes
- Crisis intervention and counseling techniques
- Role playing
- Referral services
- Sexuality

Location and Availability of Services

The Advocate shall provide effective and accessible victim-advocacy services, in a safe, private, and confidential environment.

The Advocate should be physically housed on Campus in a gender-neutral location which allows for privacy and confidentiality when meeting with victims. The Advocate should not be housed in a women’s center, as some victims are men or gender-nonconforming and might not be comfortable seeking assistance in a women’s center. A gender equity or similar inclusive center would be appropriate, but is not mandatory if a Campus has no such office.

Advocates will provide services to all Student and Employee victims. If a Student or Employee victim leaves the University, the Advocate may assist with referrals to off-Campus resources and services to ensure sustained support.

Advocacy services should be available 24 hours a day, and should be provided via a 24/7 telephone and web-based hotline. However, one employee Advocate cannot provide 24/7 coverage. Therefore, where Campus staffing, resources or funding are insufficient, a memorandum of understanding (MOU) with a local rape crisis or treatment center should be considered for after-business hours advocacy services. The MOU should provide that the local rape crisis or treatment center will coordinate and communicate with the Campus-based Advocate, in accordance with these guidelines.

Online advocacy services should also be available 24 hours a day. A prominently displayed, clear and plainly written website should be created and utilized so victims can anonymously and privately obtain all relevant information, any time of day or night.

Annual Report

The Advocate shall submit to the Campus President and Title IX Coordinator an annual report summarizing how the resources supplied to the Advocate were used, including the number of Sexual Misconduct victims assisted. No personally identifying information will be included in
the report. These annual Campus reports will also be submitted to the Systemwide Title IX Compliance Officer.

**Campus Title IX Coordinators**

Each Campus is required to designate one Title IX Coordinator with primary responsibility to monitor, supervise, and oversee overall Campus-wide implementation of and compliance with Title IX and this Executive Order, including coordination of training, education, communications, and administration of complaint procedures for Employees, Students and Third Parties in the areas of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The Title IX Coordinator shall have authority across all Campus-based divisions and programs (e.g., Human Resources, Academic Affairs, Student Affairs, Athletics, Housing, University Police, etc.) to monitor, supervise, oversee, and ensure implementation of this Executive Order in all areas, including the duties listed below. The Title IX Coordinator and any Deputy Title IX Coordinator(s) shall be Management Personnel Plan (MPP) employees. The designated coordinator should be someone without other institutional responsibilities that could create a conflict of interest (e.g., someone serving as University counsel or as a disciplinary decision maker) and should report directly to a vice-president or higher. The Title IX Coordinator must have the qualifications, authority and time to address all complaints throughout the Campus involving Title IX issues.

Each Campus may designate one or more Deputy Title IX Coordinators. The Title IX Coordinator may delegate training, education, communications, complaint procedure administration, investigations, and related Title IX duties to one or more Deputy Title IX Coordinators. However, all Deputy Title IX Coordinators must report to the Title IX Coordinator in their capacity as Deputy Title IX Coordinators. The Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks, including reviewing all investigative reports before they are final to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with all relevant Executive Orders.

The Title IX Coordinator and any Deputy Title IX Coordinator(s) must have adequate training on what constitutes Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, as well as how to investigate such complaints. The Title IX Coordinator and any Deputy Title IX Coordinator(s) must also understand how Campus and systemwide complaint procedures operate.

The Title IX Coordinator is responsible for ensuring the Notice of Non-Discrimination on the Basis of Gender or Sex (Notice) (Attachment A) and the Myths and Facts About Sexual Misconduct (Attachment B) are widely published and distributed as set forth above. Also, the Notice must identify the Campus Title IX Coordinator and any Deputy Title IX Coordinator(s), and their respective roles and responsibilities on Campus. The Title IX Coordinator is also responsible for ensuring the written explanation of Rights and Options for Victims of Sexual Misconduct, Dating or Domestic Violence, or Stalking (Attachment C) is provided to all Sexual Misconduct, Dating or Domestic Violence, or Stalking victims.

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17 Again, this includes compliance with VAWA/Campus SaVE Act and all other related sexual harassment/violence legislation.
Title IX prohibits sex-based discrimination in all University programs and activities, including athletics. Title IX measures gender equity in athletics in three distinct areas: (1) participation; (2) scholarships; and, (3) other benefits, including the provision of equipment and supplies, scheduling, travel, tutoring, coaching, locker rooms, facilities, medical and training facilities, and services, publicity, recruiting, and support services. The Title IX Coordinator is responsible for comparing the Campus’s enrollment data to the number of athletic participation opportunities for Students of the underrepresented sex; and evaluating whether there is unmet interest in a particular sport, whether there is sufficient ability to sustain a team in the sport, and whether there is a reasonable expectation of competition for the team. The Title IX Coordinator should also coordinate the Campus’s efforts to ensure that athletic financial assistance awards and the distribution of athletic benefits, including financial expenditures, comply with Title IX regulations. Because the Title IX requirements governing gender equity in athletics are complex and require coordination with NCAA and other rules, Campuses may wish to consider designating a Deputy Title IX Coordinator to handle only gender equity in athletics issues under the supervision of the Title IX Coordinator, who remains ultimately responsible for Campus-wide compliance.

In addition to coordinating training, education and preventive measures in the areas of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, the Campus Title IX Coordinator’s mandatory duties include:

- Ensuring that victims reporting Sexual Misconduct, Dating or Domestic Violence, or Stalking are notified of the right to file a criminal complaint;

- Providing reasonable Interim Remedies, if requested and available, regardless of whether the victim chooses to report the conduct to Campus police or local law enforcement;

- Meeting on a regular basis, as appropriate, with victims reporting Sexual Misconduct, Dating or Domestic Violence, or Stalking to determine what steps (interim and ultimate) should be taken to protect him/her from any resulting hostile or unsafe environment, and ensuring that such steps are taken;

- Working with all Campus divisions (e.g., University Police, Human Resources, Academic Affairs, Student Affairs, and Athletics) to provide Employees and Students all required education programs and information;

- Monitoring, supervising, and overseeing all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, including related investigations, reports, interim and/or ultimate remedies, resolution, and coordination with disciplinary decision-makers regarding any resulting discipline against the Respondent;

- Creating a case management team responsible for coordinating and monitoring reports and investigations to assure that responses are timely, appropriate, impartial, and in compliance with this and all relevant Executive Orders;

- Reviewing all investigative reports before they are final to ensure that they are sufficient, appropriate, impartial, and in compliance with this and all relevant Executive Orders.
• Ensuring that appropriate disciplinary sanctions are imposed against Employees or Students who have violated Executive Orders 1096 or 1097;

• Reviewing the outcome of Employee and Student disciplinary proceedings involving cases of alleged Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking to determine whether they resolve all complaints, and whether any additional remedies need to be provided;

• Creating a committee of Employees, Students and Campus officials to identify strategies for ensuring that Employees and Students know how to identify and report Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and know what Remedies are available to victims;

• Regularly assessing Employee and Student activities to ensure that no practices or behaviors violate policies against Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, and using the results of such assessments to inform proactive remedial steps;

• Assisting the campus in developing a method to survey the school climate and coordinate the collection and analysis of information from that survey;

• Creating a website, with a link prominently displayed on the Campus’s homepage, that includes the name and contact information of the Title IX Coordinator and any deputies, relevant policies and grievance procedures, and other resources related to Title IX compliance and gender equity;

• Identifying and addressing any systemic or other patterns of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, and implementing corrective measures, as appropriate;

• Reviewing recruitment materials, admission forms, and policies and practices to ensure that the Campus does not discriminate on the basis of sex or Gender in recruitment and admissions;

• Reviewing materials used in counseling or guiding students or applicants for admission to ensure that the Campus does not use different materials for students based on sex or Gender or use materials that permit or require different treatment of students based on sex or Gender;

• Monitoring sex-based disparities in enrollment, including in nontraditional fields, by reviewing enrollment data, counseling practices, and appraisal materials, to ensure that disparities are not the result of discrimination on the basis of sex or Gender;

• Monitoring procedures and practices for awarding financial assistance to ensure compliance with Title IX regulatory requirements;
• Providing training to Students, administrators, faculty and other staff so that they know that Title IX prohibits discrimination against pregnant and parenting Students, and assisting the Campus in helping to meet the unique educational, child care, and health care needs of pregnant and parenting Students;

• Monitoring the Campus’s administration of discipline to ensure that similarly situated students are not disciplined differently based on sex or Gender for the same offense and that the disciplinary policies do not have an unlawful disparate impact on Students based on sex, Gender Identity, or for failing to conform to stereotypical notions of masculinity or femininity in their behavior or appearance; and,

• Regularly evaluating the timeliness of investigations in a systematic manner to ensure that investigations are conducted as promptly as possible.

**Training, Education and Preventive Measures**

Each Campus must implement preventive education programs to promote the awareness of CSU policies against Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and to make victim resources available, including comprehensive victim services. Programs must include primary prevention and awareness programs: (1) for all new Students and new Employees; (2) refresher programs at least annually for all Students; (3) twice a year for all Students who serve as Advisors in residence halls; (4) annually for all Student members of fraternities and sororities; (5) annually for all Student athletes and coaches; and, (6) annually for all Employees consistent with their role in responding to and reporting incidents. Ongoing prevention and awareness campaigns for all Students and Employees shall also be conducted.

Each Campus must assess which Student organizations participate in activities that may place Students at risk and ensure that they receive annual supplemental trainings focused on situations the group’s members may encounter.

Primary prevention programs include programming, initiatives, and strategies informed by research or assessed for value, effectiveness or outcome that are intended to stop Sexual Misconduct, Dating or Domestic Violence, or Stalking before they occur through the promotion of positive and healthy behaviors that foster mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of Sexual Misconduct, Dating or Domestic Violence, or Stalking. It includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening and identifying safe and effective intervention options, and taking action to intervene.

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18 This includes incoming transfer, graduate, online, and extended education Students. The programs should occur no later than the first few weeks of the first semester.
Awareness programs include community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

To ensure that all Students receive the necessary information and training enumerated above on Sexual Misconduct, Dating and Domestic Violence, and Stalking, Campuses should impose consequences, such as registration holds, on those Students who do not participate in and complete such mandatory training.

These education and training programs shall include the following information:

- A statement that the CSU prohibits Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking.
- What constitutes Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking.
- The definition of Affirmative Consent.
- A statement that Sexual Misconduct, Dating and Domestic Violence, and Stalking violate University policy and may also violate criminal law.
- Common facts and myths about the causes of Sexual Misconduct. (See Attachment B, Myths and Facts about Sexual Misconduct, to be posted and published alongside Attachment A, Notice of Nondiscrimination on the Basis of Gender or Sex.)
- Safe and positive options for bystander intervention that may be taken by an individual to prevent harm or intervene in risky situations involving these offenses.
- Methods of encouraging peer support for victims.
- Information regarding Campus, criminal, and civil consequences of committing acts of Sexual Misconduct, Dating and Domestic Violence, and Stalking.
- A statement explaining that the University’s primary concern is the safety of members of the Campus community; that the use of alcohol or drugs never makes the victim at fault for Sexual Misconduct; that Students or Employees who experience or witness Sexual Misconduct should not be deterred from reporting incidents out of a concern that they might be disciplined for related violations of drug, alcohol, or other University policies; and that Students or Employees who experience or witness Sexual Misconduct shall not be subject to discipline for related violations of conduct policies at or near the time of the misconduct unless the violation is egregious (including actions that place the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.)
- A statement that “CSU policy prohibits retaliation against a person who: reports Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking; assists someone with a report of such conduct; or participates in any manner in an related investigation or resolution. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education.”
- How to recognize warning signs of abusive behavior and how to avoid potential attacks.
• Information on risk reduction, including options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

• What someone should do if s/he has experienced or witnessed Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking.

• Individuals to whom incidents may be reported along with information regarding what degree of confidentiality may be maintained by those individuals.

• The availability of, and contact information for, Campus and community resources for victims of Sexual Misconduct, Dating or Domestic Violence, or Stalking.

• A description of Campus and systemwide policies and disciplinary procedures available for addressing alleged violations and the consequences of violating these policies, including the fact that such proceedings shall:
  ■ Provide a prompt, fair, and impartial investigation and resolution; and,
  ■ Be conducted by officials who receive annual training on issues related to Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.

• The fact that the victim and the Respondent will be afforded the same opportunities to have others present during a disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice.

• The fact that both the victim and the Respondent shall be simultaneously informed in writing of:
  ■ The outcome of any disciplinary proceedings that arises from an allegation of a Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking;
  ■ The University’s procedures for the victim or Respondent to appeal the results of the disciplinary proceeding;
  ■ Any change to the disciplinary results that occurs prior to the time such results become final; and,
  ■ When disciplinary results become final.

• Possible sanctions or protective measures the University may impose following the final determination of a University disciplinary procedure regarding Sexual Misconduct, Dating or Domestic Violence, or Stalking.

• How the University will protect the confidentiality of victims, including how publicly-available recordkeeping (e.g., Campus Clery reports) will be accomplished without the inclusion of identifying information about the victim to the extent permissible by law.

• That persons who report being a victim of Sexual Misconduct, Dating or Domestic Violence, or Stalking must receive written notification of:
Existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims, both on Campus and in the community.

Options for, and available assistance in, changing academic, living, transportation, and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the incident to Campus police or local law enforcement.

- Procedures victims should follow if Sexual Misconduct, Dating or Domestic Violence, or Stalking has occurred, as well as the fact that the following written information must be provided to victims:
  - The importance of preserving evidence as may be necessary to prove Sexual Misconduct, Dating or Domestic Violence, or Stalking, or to obtain a temporary restraining or other protective order;
  - The name and contact information of the University Employee(s) to whom the alleged offense should be reported;
  - Reporting to law enforcement and Campus authorities, including the option to: (a) notify law enforcement authorities, including on-Campus and local police; (b) be assisted by Campus authorities in notifying law enforcement authorities if the victim so chooses; and, (c) decline to notify such authorities;
  - Where applicable, the rights of victims and the University’s responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

The above information is also contained in the Notice of Nondiscrimination on the Basis of Gender or Sex (Attachment A). As previously stated, Campuses shall post the Notice prominently on the Campus website and include the Notice in handbooks/policies applicable to Employees, Students, Student athletes and members of Student activity groups and organizations, along with Myths and Facts About Sexual Misconduct (Attachment B.)

All persons involved in implementing these procedures (e.g., the Campus Title IX Coordinator and any Deputy Title IX Coordinator(s), investigators, Human Resource Directors and Hearing Officers presiding over student conduct hearings) shall have relevant annual training on issues related to Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. Such annual training shall include the CSU complaint processes, as well as the handling, investigation and analysis of complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The annual training shall also address applicable confidentiality issues, especially with respect to the Title IX Coordinator’s duty to weigh any victim’s request for confidentiality against the duty to provide a safe and nondiscriminatory environment for all members of the Campus community. For matters involving Sexual Misconduct, Dating and Domestic Violence, and Stalking, the training shall also include how to conduct an investigation and hearing process that protects the safety of the person(s) involved and promotes accountability.
**Remedies and Enforcement**

**Interim and Ultimate Remedies.** The University is required to provide victims who experience Sexual Misconduct, Dating or Domestic Violence, or Stalking with reasonably available Interim Remedies, if requested, regardless of whether the victim chooses to report the misconduct to Campus police or local law enforcement. Victims should be notified of options for avoiding contact with the Respondent, including changes to the Respondent’s or purported victim’s employment, academic or living situations, as appropriate. For example, the Campus may prohibit the parties from having any contact with each other pending the outcome of the Campus investigation and any ensuing discipline proceeding. Campuses should minimize the burden on the victim and should not, as a matter of course, remove victims from work assignments, job sites, classes or housing while allowing the Respondent to maintain the status quo. Other possible interim (and ultimate) steps may include providing an escort between Campus locations in extraordinary cases where safety may be endangered; changes to Employee work areas, work assignments or reporting relationships; providing Students with academic support services such as tutoring or allowing Students to re-take a course or withdraw from a course without penalty and without adverse effect on their academic records; and reviewing any disciplinary actions proposed to be taken against an alleged victim to see if there is a causal connection between the misconduct forming the basis for the proposed discipline and the alleged Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking. The Title IX Coordinator shall assist and provide the purported victim with reasonable Remedies as requested throughout the reporting, investigative, and disciplinary processes, and thereafter.

**Victim Rights and Resources.** Victims also should be made aware of their rights under Title IX, VAWA/Campus SaVE Act and related legislation, and any available resources, such as counseling, health, and mental health services, as well as the right to file a complaint with University and/or local law enforcement. Campuses must also ensure that persons know how to report any subsequent problems, and the Campus Title IX Coordinator or other appropriate Campus representatives should follow-up to determine whether any retaliation or new incidents of misconduct have occurred.

When addressing Sexual Misconduct, Dating or Domestic Violence or Stalking, Campuses should consider both on and off Campus resources, including local rape crisis centers, municipal law enforcement agencies, district attorneys' offices, and forensic medical examination sites. This allows Campuses to draw upon the expertise and resources of a broader group of professionals, thereby marshalling and maximizing time-sensitive services and resources.

**Coordination with Criminal Investigations and Proceedings**

A pending (Campus or local) police criminal investigation does not relieve a Campus of its responsibility to resolve Sexual Misconduct, Dating or Domestic Violence, or Stalking complaints: a Campus may not wait until the conclusion of a police investigation to commence its own administrative investigation, and must take immediate steps to protect the victim(s). Although it may be necessary to temporarily delay the administrative investigation while the police are gathering evidence conducting their criminal investigation, once notified that the police have completed the fact gathering portion of their investigation, the Campus must promptly resume and complete its own investigation. Subject to applicable law, the Title IX Coordinator should normally be given access to Campus law enforcement investigation notes,
reports and findings as necessary for the administrative investigation, so long as it does not compromise the police/criminal investigation.

Campus police shall encourage the victim to file a complaint with the Title IX Coordinator (in addition to filing a criminal complaint). Unless the victim has already notified and/or consented to the disclosure of his/her identity to the Title IX Coordinator, Campus law enforcement shall redact all identity information before providing the Title IX Coordinator access to its investigation notes, reports and findings. Campus police shall also report the incident itself to the Title IX Coordinator while maintaining the confidentiality of the victim’s identity (if anonymity is requested).

Campus police should receive copies of, and training on, this and all relevant Executive Orders, including the University’s Sexual Misconduct, Dating and Domestic Violence, and Stalking investigation and complaint procedures.

Campus agreements with local law enforcement must allow the Campus to meet its obligations under this and all related Executive Orders to resolve complaints promptly and equitably.

**Annual Report**

Each Campus will report the following annually on October 1, for the prior fiscal year (July 1 to June 30), without disclosing any information that would reveal the identities of the parties involved:

1. The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports received in which a Student is the Respondent;
2. The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports received in which an Employee is the Respondent;
3. The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports investigated;
4. The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking reports resolved without investigation, including a description of the resolution and/or reason for no investigation;
5. The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking investigations in which the Respondent was held responsible, including a description of the final sanction; and,
6. The number of Sexual Misconduct, Dating and Domestic Violence, and Stalking investigations in which the evidence was found insufficient to hold the Respondent responsible.
The information shall be reported in a manner that protects the privacy of the persons involved, including victims, Respondents, and witnesses, and shall be posted on the Campus web site.

The Title IX Coordinator is responsible for preparing and publishing the annual report.

Dated: June 23, 2015

Attachments:

Attachment A – Notice of Non-Discrimination on the Basis of Gender or Sex
Attachment B – Myths and Facts about Sexual Misconduct
Attachment C – Rights and Options for Victims of Sexual Misconduct, Dating and Domestic Violence, and Stalking

Revision History:

As a result of the issuance of this Executive Order, the following documents are superseded as of the effective date of this Executive Order and are no longer applicable:

- Executive Order 1095 (Implementation of Title IX, VAWA/Campus SaVE Act, and Related Sex Discrimination, Sexual Harassment and Sexual Violence Legislation), dated June 3, 2014
- Executive Order 1072 (Implementation of Title IX of the Education Amendments of 1972 and Related Sexual Harassment/Violence Legislation for CSU Students), dated April 6, 2012
- Executive Order 993 (Implementation of the "California Campus Blueprint to Address Sexual Assault" and other Sexual Assault Legislation), dated October 23, 2006
NOTICE OF NON-DISCRIMINATION ON THE BASIS OF GENDER OR SEX

The California State University does not discriminate on the basis of gender, which includes sex and gender identity or expression, or sexual orientation in its education programs or activities. Title IX of the Education Amendments of 1972, and certain other federal and state laws, prohibit discrimination on the basis of gender or sexual orientation in employment, as well as in all education programs and activities operated by the University (both on and off campus). The protection against discrimination on the basis of gender or sexual orientation includes sexual harassment, sexual misconduct, and gender based dating and domestic violence and stalking. The following person has been designated to handle inquiries regarding the non-discrimination policies:

[Insert contact information for all campus Title IX Coordinator/Coordinators, including additional information that would help Students and Employees identify which Title IX Coordinator to contact and identifying the lead Title IX Coordinator.]

Questions may also be addressed to:

Office for Civil Rights
U.S. Department of Education
50 Beale Street, Suite 7200
San Francisco, CA 94105-1813
Telephone: 415-486-5555
FAX: 415-486-5570; TDD: 800-877-8339
Email: ocr.sanfrancisco@ed.gov
Myths and Facts about Sexual Misconduct

Common Myths and Facts about the Causes of Sexual Misconduct

1) **Myth**: Victims provoke Sexual Assaults when they dress provocatively or act in a promiscuous manner.¹

   **Fact**: Rape and Sexual Assault are crimes of violence and control that stem from a person’s determination to exercise power over another. Neither provocative dress nor promiscuous behaviors are invitations for unwanted sexual activity. Forcing someone to engage in non-consensual sexual activity is Sexual Assault; regardless of the way that person dresses or acts.

2) **Myth**: If a person goes to someone’s room or house or goes to a bar, s/he assumes the risk of Sexual Assault. If something happens later, s/he can’t claim that s/he was raped or sexually assaulted because s/he should have known not to go to those places.

   **Fact**: This “assumption of risk” wrongfully places the responsibility of the offender’s action with the victim. Even if a person went voluntarily to someone’s home or room and consented to engage in some sexual activity, it does not serve as blanket consent for all sexual activity. University policy defines Sexual Misconduct to include any sexual activity that is engaged in without Affirmative Consent. Affirmative Consent means informed, affirmative, voluntary, and mutual agreement to engage in sexual activity. Each person involved is responsible to ensure that they have the Affirmative Consent of the other participant(s). When in doubt if the person is comfortable with an elevated level of sexual activity, stop and ask. When someone says “no” or “stop,” that means “STOP!” Sexual activity forced upon another without valid consent is Sexual Assault.

3) **Myth**: It is not Sexual Misconduct if it happens after drinking or taking drugs.

   **Fact**: Being under the influence of alcohol or drugs is not an invitation for sexual activity. A person under the influence does not cause others to assault her/him; others choose to take advantage of the situation and sexually assault her/him because s/he is in a vulnerable position. A person who is incapacitated due to the influence of alcohol or drugs is not able to consent to sexual activity.

4) **Myth**: Most Sexual Assaults are committed by strangers. It’s not rape if the people involved know each other.

¹ Key capitalized terms are defined on pp. 6 - 11.
**Fact**: Most Sexual Assaults and Rape are committed by someone the victim knows. A study of sexual victimization of college women showed that about 90% of victims knew the person who sexually victimized them. Most often, a boyfriend, ex-boyfriend, classmate, friend, acquaintance or co-worker sexually victimized the person. It is important to remember that Sexual Misconduct can occur in both heterosexual and same-gender relationships.

5) **Myth**: Rape can be avoided if women avoid dark alleys or other “dangerous” places where strangers might be hiding or lurking.

**Fact**: Rape and other Sexual Misconduct can occur at any time, in many places, to anyone.

6) **Myth**: A person who has really been sexually assaulted will be hysterical.

**Fact**: Victims of Sexual Assault exhibit a spectrum of responses to the assault which can include: calm, hysteria, withdrawal, anxiety, anger, apathy, denial, and shock. Being sexually assaulted is a very traumatic experience. Reaction to the assault and the length of time needed to process through the experience vary with each person. There is no “right way” to react to being sexually assaulted. Assumptions about the way a victim “should act” may be detrimental to the victim because each victim copes in different ways.

7) **Myth**: All victims will report the crime immediately to the police. If they do not report it or delay in reporting it, then they must have changed their minds after it happened, wanted revenge or didn’t want to look like they were sexually active.

**Fact**: There are many reasons why a victim may not report the assault to the police or campus officials. It is not easy to talk about being sexually assaulted and can feel very shameful. The experience of retelling what happened may cause the person to relive the trauma. Another reason for delaying a report or not making a report is the fear of retaliation by the offender. There is also the fear of being blamed, not being believed and being required to go through judicial proceedings. Just because a person does not report the incident does not mean it did not happen.

8) **Myth**: Only young, pretty women are assaulted.

**Fact**: The belief that only young, pretty women are sexually assaulted stems from the myth that Sexual Misconduct is based on sex and physical attraction. Sexual Assault is a crime of power and control. Offenders often choose people whom they perceive as most vulnerable to attack or over whom they believe they can assert power. Men and boys are also sexually assaulted, as well as persons with disabilities. Assumptions about
the “typical” victim might lead others not to report the assault because they do not fit the stereotypical victim profile.

9) **Myth:** It’s only Rape if the victim puts up a fight and resists.

**Fact:** Many states do not require the victim to resist in order to charge the offender with Rape or Sexual Assault. Those who do not resist may feel if they do so, they will anger their attacker, resulting in more severe injury. Many assault experts say that victims should trust their instincts and intuition and do what they believe will most likely keep them alive. Not fighting or resisting an attack does not equal consent.

10) **Myth:** Someone can only be sexually assaulted if a weapon was involved.

**Fact:** In many cases of Sexual Assault, a weapon is not involved. The offender often uses physical strength, physical violence, intimidation, threats or a combination of these tactics to overpower the victim. Although the presence of a weapon while committing the assault may result in a higher penalty or criminal charge, the absence of a weapon does not mean that the offender cannot be held criminally responsible for a Sexual Assault.

**What You Can Do To Help Stop Sexual Misconduct**

- Sexual contact requires mutual and Affirmative Consent. An incapacitated person (for example, a person under the influence of drugs or alcohol) may be incapable of giving consent. Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person’s decision-making capacity, awareness of consequences, and ability to make fully informed judgments.
- No one deserves to be sexually assaulted, stalked or victimized in any way.
- Don’t engage in any behavior that may be considered Sexual Assault, Domestic Violence, Dating Violence, Stalking or any other form of Sexual Misconduct or violence.
- Never use force, coercion, threats, alcohol or other drugs to engage in sexual activity.
- Take responsibility for your actions.
- Avoid alcohol and other drugs.
- Remember “no” means “No!” and “stop” means “Stop!”
- Report incidents of violence (including coercion) to law enforcement and campus authorities.
• Discuss Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking with friends—speak out against non-consensual sex or violence and clear up misconceptions.
• Don’t mistake submission or silence for Affirmative Consent.

What You Can Do To Help Minimize Your Risk of Becoming a Victim

• Be aware. Does your partner: Threaten to hurt you or your children? Say it’s your fault if he or she hits you and then promises it won’t happen again (but it does)? Put you down in public? Force you to have sex when you don’t want to? Follow you? Send you unwanted messages and gifts?
• Be assertive. Speak up.
• Stay sober and watch out for dates and/or anyone who tries to get you drunk or high.
• Clearly communicate limits to partners, friends, and acquaintances.
• Never leave a party with someone you don’t know well and trust.
• Trust your feelings; if it feels wrong, it probably is.
• Learn all you can and talk with your friends. Help them stay safe.
• Report incidents of violence to law enforcement and campus authorities.

What You Can Do If You Are a Victim, in General

• Go to a safe place as soon as possible.
• Preserve evidence.
• Report the incident to University Police or local law enforcement.
• Report the incident to your campus Title IX Coordinator.
• Call/visit the campus Sexual Assault Victim’s Advocate
• Call a Domestic Violence, Sexual Assault or Stalking hotline.
• Call a friend or family member for help.
• Know that you are not at fault. You did not cause the abuse to occur and you are not responsible for someone else’s violent behavior.
Sexual Misconduct - Risk Reduction Tips

All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.

Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape, and Dating Violence. When based on Gender, Domestic Violence and Stalking also constitute Sexual Misconduct. Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person’s intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person’s incapacitation (including voluntary intoxication) to engage in sexual activity. Men as well as women can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when a person is under 18 years old, because a minor is considered incapable of giving legal consent due to age.

“What can I do in order to help reduce my risk of being a victim of Sexual Misconduct?”

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame and with recognition that only those who commit Sexual Misconduct are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.
- In an emergency, call 9-1-1

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2 See definition of Affirmative Consent below.
“What can I do in order to help reduce my risk of being an initiator of Sexual Misconduct?”

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk of being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON’T MAKE ASSUMPTIONS about consent, about someone’s sexual availability, about whether they are attracted to you, about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don’t take advantage of someone’s drunkenness or drugged state, even if they did it to themselves. Incapacitation means a person is unable to give valid consent.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don’t abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

**Rape, Acquaintance Rape, Sexual Assault, Sexual Battery**

**Rape** is a form of Sexual Misconduct and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical Disability renders a person incapable of giving consent. The Respondent’s relationship to the person (such as family
member, spouse, friend, acquaintance or stranger) is not determinative.³ (See complete
definition of Affirmative Consent below.)

**Acquaintance Rape** is a form of Sexual Misconduct committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website.

**Sexual Assault** is a form of Sexual Misconduct and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person’s gender or sex.⁴

**Sexual Battery** is a form of Sexual Misconduct and is any willful and unlawful use of force or violence upon the person of another because of that person’s gender or sex as well as touching an intimate part of another person against that person’s will and for the purpose of sexual arousal, gratification, or abuse.⁵

In order for a sexual act to be considered Rape or Sexual Assault, the act must be **non-consensual**.

Crimes of a sexual nature may be reported to campus or local law enforcement in addition to being reported administratively on campus to the Title IX Coordinator. **Both men and women can be victims of Rape or Sexual Assault.**

**Affirmative Consent**

Affirmative Consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the Affirmative Consent of the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be voluntary, and given without coercion, force, threats, or intimidation.

The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent. A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent.

Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must

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⁵ See Cal. Penal Code § 242
always be mutual and Affirmative Consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.

Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when s/he is asleep, unconscious, or is incapacitated due to the influence of drugs, alcohol or medication so that s/he could not understand the fact, nature, or extent of the sexual activity. A person is incapacitated if s/he lacks the physical and/or mental ability to make informed, rational decisions.

Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person’s decision-making ability, awareness of consequences, and ability to make informed judgments. A person’s own intoxication or incapacitation from drugs or alcohol does not diminish that person’s responsibility to obtain Affirmative Consent before engaging in sexual activity.

A person with a medical or mental disability may also lack the capacity to give consent.

Sexual activity with a minor (a person under 18 years old) is never consensual, because a minor is considered incapable of giving consent due to age.

It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:

- The person was asleep or unconscious;
- The person was incapacitated due to the influence of drugs, alcohol, or medication, so that the person could not understand the fact, nature, or extent of the sexual activity;
- The person was unable to communicate due to a mental or physical condition.

It shall not be a valid excuse to alleged lack of Affirmative Consent that the Respondent believed that the person consented to the sexual activity under either of the following circumstances:

- The Respondent’s belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent;
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented to the sexual activity.
What is Dating Violence or Domestic Violence?

**Domestic Violence** is abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the abuser has a child; someone with whom the abuser has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. 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. For purposes of this definition, “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. Abuse does not include non-physical, emotional distress or injury.6

**Dating Violence** is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim.7 This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, “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. Abuse does not include non-physical, emotional distress or injury.

Types of Dating/Domestic Violence That Constitute Sexual Misconduct

There usually is a pattern or a repeated cycle of Dating Violence, starting with the first instance of abuse.

**General Pattern of Behavior:**

- **Tension Building:** Relationship begins to get strained or tense between partners.
- **Explosion:** Outburst that includes verbal, emotional, or physical abuse.
- **Honeymoon:** Apologies where the abuser tries to re-connect with his/her partner by shifting the blame onto someone or something else.

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6 See Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.
7 See Cal. Penal Code § 13700(b).
What Dating/Domestic Violence Looks Like

- **Physical Abuse:** any use of physical force with the intent to cause injury (i.e. grabbing in a way to inflict pain, hitting, shoving, strangling, kicking)
- **Sexual Abuse:** any action that impacts the partner’s ability to control his/her sexual activity or the circumstance in which sexual activity occurs, including Rape, coercion or restricting access to birth control

Warnings or Signs of Potential Dating/Domestic Violence

- Any actions used for the intent of gaining power and control over a person. Checks my cell phone or email without my permission.
- Monitors where I’m going, who I’m going with, what I’m doing.
- Repeatedly says or does things to make me feel inadequate or inferior to him/her.
- Extreme jealously or insecurity.
- Isolates me from my friends and family.
- Explosive temper.
- Mood swings.
- Assumes control over my access to financial resources.
- Tells me what to do.
- Possessiveness.
- Physically hurts me in any way.

Stalking

**Stalking** means a repeated course of conduct directed at a specific person (when based on gender or sex) that places that person in reasonable fear for his/her or others’ safety, or to suffer substantial emotional distress.  

Stalking is a pattern of behavior that makes you feel afraid, nervous, harassed or in danger. It is when someone repeatedly contacts you, follows you, sends you things, talks to you when you don't want them to or threatens you. Stalking behaviors can include:

- Damaging your property.
- Knowing your schedule.

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8 See Cal. Penal Code § 646.9.
• Showing up at places you go.
• Sending mail, e-mail, texts and pictures.
• Creating a website about you.
• Sending gifts.
• Stealing things that belong to you.
• Calling you repeatedly.
• Any other actions that the stalker takes to contact, harass, track or frighten you.

You can be stalked by someone you know casually, a current boyfriend or girlfriend, someone you dated in the past or a stranger. Getting notes and gifts at your home, on your car or other places might seem sweet and harmless to other people, but if you don't want the gifts, phone calls, messages, letters or e-mails, it doesn't feel sweet or harmless. It can be scary and frustrating.

Sometimes people stalk their boyfriends or girlfriends while they're dating. They check up on them, text or call them all the time, expect instant responses, follow them, use GPS to secretly monitor them and generally keep track of them, even when they haven't made plans to be together. These Stalking behaviors can be part of an abusive relationship. If this is happening to you or someone you know, you should talk to a trusted person.

Stalking is a crime and can be dangerous. California Penal Code section 646.9, in part, states, “Any person who willfully, maliciously and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking…..”

How You Can Help Yourself

Think about ways you can be safer. This means thinking about what to do, where to go for help and who to call ahead of time:

• Where can you go for help?
• Who can you call?
• Who will help you?
• How will you escape a violent situation?

Other Things You Can Do

• In an emergency, call 911 or University Police or the local police department.
• Let friends or family members know when you are afraid or need help.
• Be aware of your surroundings. Knowing where you are and who is around you may help you find a way to get out of a bad situation.
• Avoid isolated areas.
• Avoid putting headphones in both ears so you can be more aware of your surroundings.
• Trust your instincts. If a situation or location feels unsafe or uncomfortable, remove yourself.
• Vary your routine, your driving routes and where you park your car.
• When you go out, tell someone where you are going and when you'll be back. Memorize the phone numbers of people to contact or places to go in an emergency.
• Don’t load yourself down with packages or bags restricting your movement.
• Keep your cell phone handy; check to see that you have reception and that your cell phone is charged, but, then pay attention to your surroundings instead of the phone.
• Have money for a cab or other transportation.
• Save notes, letters or other items that the stalker sends to you. Keep a record of all contact that the stalker has with you; these items will be very useful in an investigation.

How You Can Help Someone Else

If you know someone who is being stalked, you can:
• Encourage your friend to seek help.
• Be a good listener.
• Offer your support.
• Ask how you can help.
• Educate yourself about stalking.
• Avoid any confrontations with the stalker; this could be dangerous for you and your friend.
RIGHTS AND OPTIONS
FOR VICTIMS OF SEXUAL MISCONDUCT,
DATING AND DOMESTIC VIOLENCE, AND STALKING

The University is committed to creating and sustaining an educational and working environment free of sexual misconduct, dating and domestic violence, and stalking. If you experience any of these forms of misconduct, you are strongly encouraged to utilize the various on and off campus resources described below. Your safety and well-being is the University’s priority. This publication is intended to help you understand your rights and options, as well as provide you with information regarding support and assistance.

WHAT SHOULD I DO?

Call 9-1-1 if you are in the midst of any kind of emergency, immediate harm or threat of harm.

If you have experienced sexual misconduct (e.g., rape, acquaintance rape, or sexual battery), dating or domestic violence, or stalking, you are encouraged to seek immediate assistance from police and healthcare providers for your physical safety, emotional support and medical care.

University police can escort you to a safe place and transport you to a hospital or a sexual assault response center for a medical examination, if needed. University police can also provide access to a confidential Sexual Assault Victim’s Advocate. If you would prefer not to notify the police, you are strongly encouraged to seek assistance from the campus Title IX Coordinator who can provide you with information on your options, rights and remedies, and/or the Campus Sexual Assault Victim’s Advocate. The campus Title IX Coordinator is available to assist you in notifying the police, if you wish. The Sexual Assault Victim’s Advocate listed below can also assist you in notifying the police and/or the campus Title IX Coordinator.

You have the right to decide whom and when to tell about what happened. However, it is very important that you get confidential medical attention after being assaulted. Following the incident, you may be physically injured, there may be a chance you contracted a sexually transmitted disease or that you may become pregnant.

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1 As required by the Violence Against Women Reauthorization Act of 2013 (20 U.S.C. 1092(f))(VAWA), pursuant to its Campus Sexual Violence Elimination Act provision (Campus SaVE Act) and related laws and regulations.
2 Terms contained within this Notice are intended to be gender neutral.
WHOM SHOULD I CONTACT?

The University has designated a Title IX Coordinator to provide you with assistance and support, and to monitor and oversee overall compliance with laws and policies related to sexual misconduct, dating and domestic violence, and stalking. Your Campus Title IX Coordinator is available to explain and discuss your right to file a criminal complaint; the University’s relevant complaint process, and your right to receive assistance with that process, including the investigation process; how confidentiality is handled; available resources, both on and off Campus; and other related matters.

[Campus name] Title IX Coordinator and Deputy Coordinator(s) [If there is one or more Deputy Coordinator you must list each one, along with respective roles and responsibilities for each]:

- Name
- Address (including email address)
- Phone
- Office hours

University Police

- Name
- Address (including email address)
- Phone

Local Police

- Name
- Address (including email address)
- Phone

Campus Sexual Assault Victim’s Advocate

- Name
- Address (including email address)
- Phone

U.S. Department of Education, Office for Civil Rights:

- (800) 421-3481 or ocr@ed.gov
- If you wish to fill out a complaint form online with the OCR, you may do so at: http://www2.ed.gov/about/offices/list/ocr/complaintintro.html.

The White House Task Force to Protect Students From Sexual Assault

- https://www.notalone.gov/
Medical & Counseling Services

Campus Services

[Insert Campus health/counseling/women’s center(s) name and contact info]
[ADD WEB LINK(S)]

Off-Campus Services

[Insert health/counseling/women’s centers(s), community rape crisis center’s name and contact info]
[ADD WEB LINK(S)]

THE IMPORTANCE OF PRESERVING EVIDENCE

It is important that you take steps to preserve and collect evidence; doing so preserves the full range of options available to you, be it through the University’s administrative complaint procedures or criminal prosecution. To preserve evidence: (1) do not wash your face or hands; (2) do not shower or bathe; (3) do not brush your teeth; (4) do not change clothes or straighten up the area where the assault took place; (5) do not dispose of clothes or other items that were present during the assault, or use the restroom; and, (6) seek a medical exam immediately. If you already cleaned up from the assault, you can still report the crime, as well as seek medical or counseling treatment. You may consult with the Campus Title IX Coordinator or Sexual Assault Victim’s Advocate (see contact information above) for assistance as well.

WHAT REPORTING OPTIONS DO I HAVE?

The University’s primary concern is your safety and the safety of the Campus community. The use of alcohol or drugs never makes the victim at fault for sexual misconduct. If you have experienced sexual misconduct, dating or domestic violence, or stalking you should not be deterred from reporting the incident out of a concern that you might be disciplined for related violations of drug, alcohol or other University policies. Except in egregious circumstances, University students or employees who are victims of sexual misconduct will not be subject to discipline.

You have several reporting options, and you may pursue one or more of these options at any time. It is your right to have a friend, family member, Sexual Assault Victim’s Advocate, or other representative present with you while reporting the incident. You also have the right to
have a sexual assault counselor, Sexual Assault Victim’s Advocate and/or support person of your choice present with you during a rape examination.

The Campus Title IX Coordinator or Sexual Assault Victim’s Advocate can assist you in notifying the police if you choose.

**Criminal**: Reporting to University Police and/or local police is an option at any time. If you choose not to report to the police immediately following an incident, you can still make the report at a later time. However, with the passage of time, the ability to gather evidence to assist with criminal prosecution may be limited. Depending on the circumstances, the police may be able to obtain a criminal restraining order on your behalf.

**Administrative**: You may report to the Campus Title IX Coordinator, who will provide you with written and verbal information regarding applicable University complaint procedures for investigating and addressing the incident. The Title IX Coordinator will also provide you with information regarding resources available to you, as well as information regarding your rights and options. Contact information for the Title IX Coordinator is listed above.

The Campus Title IX Coordinator will also discuss with you any reasonable interim remedies the University may offer prior to conclusion of an investigation or potential disciplinary action to reduce or eliminate negative impact on you and provide you with available assistance. Examples include: adjustment to work assignments, course schedules or supervisory reporting relationship; requiring the Respondent to move from University-owned or affiliated housing; immediately prohibiting the Respondent from coming to the University; or prohibiting the Respondent from contacting the parties involved in the reported incident. These options may be available to you whether or not you choose to report the incident to Campus police or law enforcement. The Title IX Coordinator remains available to assist you and provide you with reasonable remedies requested by you throughout the reporting, investigative, and disciplinary processes, and thereafter.

If it is determined that University policy[^3] was violated, the Respondent will be subject to discipline, up to and including dismissal from University employment or expulsion from the University. You are entitled to be accompanied to any related meeting or proceeding by an advisor of your choice, including a Sexual Assault Victim’s Advocate or domestic violence.

[^3]: Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Employees and Third Parties and Procedure for Addressing Such Complaints by Employees and Third Parties); Executive Order 1097 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Students and Systemwide Procedure for Addressing Such Complaints by Students).
counselor. However, if you do not wish to participate in an investigation or hearing process, you have the right to decline to do so.

**Health/Counseling/Clergy:** You may choose to seek advice and assistance from physicians, psychotherapists, professional counselors, clergy, sexual assault and domestic violence counselors and advocates, including individuals who work or volunteer for them.

**Civil Lawsuit:** You may choose to file a civil lawsuit against the Respondent, whether or not criminal charges have been filed. A civil lawsuit provides you the opportunity to recover actual damages, which may include compensation for medical expenses, lost wages, pain, suffering, and emotional distress.

You may also choose to obtain a protective or restraining order (such as a domestic violence restraining order or a civil harassment restraining order). Restraining orders must be obtained from a court in the jurisdiction where the incident occurred. Restraining orders can protect victims who have experienced or are reasonably in fear of physical violence, sexual misconduct, dating or domestic violence, or stalking. University Police and your Campus Title IX Coordinator can offer assistance with obtaining a protective or restraining order.

**Non-reporting:** You are strongly encouraged to report any incidents to the police and/or Campus Title IX Coordinator so that steps may be taken to protect you and the rest of the campus community. However, non-reporting is also an option.

**CONFIDENTIALITY – KNOW YOUR OPTIONS**

We encourage victims of sexual misconduct, dating or domestic violence, or stalking to talk to someone about what happened – so you can get the support you need, and so the University can respond appropriately. Whether – and the extent to which – a University employee may agree to maintain confidentiality (and not disclose information to the Title IX Coordinator) depends on the Employee’s position and responsibilities at the University. This information is intended to make you aware of the various reporting and confidential disclosure options available to you – so you can make informed choices about where to turn for help. The University encourages victims to talk to someone identified in one or more of these groups.

As explained below, some employees are required by law to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.” Other Employees may talk to a victim in confidence, and generally only report to the University that an incident occurred without revealing any personally identifying information. Some employees are required to report all details of an incident (including the identities of both the victim and alleged
perpetrator) to the Title IX Coordinator. A report to these employees constitutes a report to the University, and generally creates a legal obligation for the University to investigate the incident and take appropriate steps to address the situation.

Privileged and Confidential Communications

Physicians, Psychotherapists, Professional Counselors and Clergy

Physicians, psychotherapists, professional, licensed counselors, and clergy who work or volunteer on or off campus acting solely in those roles or capacity, in the provision of medical or mental health treatment or counseling (including those who work or volunteer in those offices) may not report any information about an incident of sexual misconduct to anyone else at the University, including the Title IX Coordinator, without your consent. You can seek assistance and support from physicians; psychotherapists, professional, licensed counselors, and clergy without triggering a University investigation that could reveal your identity or the fact of your disclosure. However, see limited exceptions below regarding when health care practitioners must report to local law enforcement agencies. Health care practitioners should explain these limited exceptions to you, if applicable. Following is the contact information for professional counselors and physicians (if any) on campus:

[INSERT LIST OF NAMES AND CONTACT INFO]

Sexual Assault and Domestic Violence Counselors and Advocates

Sexual assault and domestic violence counselors and advocates who work or volunteer on or off campus in sexual assault centers, victim advocacy offices, women’s centers, and health centers (including all individuals who work or volunteer in these centers and offices, as well as non-professional counselors or advocates, and those who act in that role under their supervision) may talk to you without revealing any information about you or the incident of sexual misconduct to anyone else at the University, including the Title IX Coordinator, without your consent. You can seek assistance and support from these counselors and advocates without triggering a University investigation that could reveal your identity or that you disclosed an incident to them. However, see limited exceptions below regarding when sexual assault and domestic violence counselors and advocates must report to local law enforcement agencies. Counselors and advocates should explain these limited exceptions to you, if applicable. Following is contact information for sexual assault and domestic violence counselors and advocates:

[INSERT LIST OF NAMES AND CONTACT INFO]

4 See Cal. Evid. Code § 990 et seq., § 1010 et seq., and § 1030 et seq.

If you speak only to a physician, professional counselor, clergy member, sexual assault counselor, domestic violence counselor or advocate, you must understand that the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the perpetrator, if you choose to maintain confidentiality.

Even so, these individuals will still assist you in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services. They may not, however, be able to assist you with University academic support or accommodations, or changes to University-based living or working schedules, or assist with adjustments to course schedules. Only the University and the Title IX Coordinator can assist with those matters (see below). A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to the police, and thus have the incident fully investigated. These counselors and advocates can provide you with that assistance if you wish. These counselors and advocates will also explain that Title IX includes protections against retaliation, and that the University will not only take steps to prevent retaliation when it knows or reasonably should know of possible retaliation, but will also take strong responsive action if it occurs.

**EXCEPTIONS:** Under California law, any health practitioner employed in a health facility, clinic, physician’s office, or local or state public health department or clinic is required to make a report to local law enforcement if he or she provides medical services for a physical condition to a patient/victim who he or she knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive conduct (including sexual misconduct and dating and domestic violence).\(^6\) This exception does not apply to sexual assault and domestic violence counselors and advocates. Health care practitioners will explain this limited exception to you, if applicable.

Additionally, under California law, all professionals described above (physicians, psychotherapists, professional counselors, clergy, and sexual assault and domestic violence counselors and advocates) are mandatory child abuse and neglect reporters, and are required to report incidents involving victims under 18 years of age to local law enforcement.\(^7\) These professionals will explain this limited exception to you, if applicable.

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\(^6\) Assaulitive or abusive conduct is defined to include a list of 24 criminal offenses, including sexual battery, incest, rape, spousal rape, abuse of a spouse or cohabitant, and any attempt to commit these crimes. See Cal. Penal Code §§ 11160-11163.2.

\(^7\) See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.
Finally, some or all of these professionals may also have reporting obligations under California law to: (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger;\(^8\) or (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the incident.\(^9\) If applicable, these professionals will explain this limited exception to you.

**Reporting to University or Local Police**

If you report certain sex offenses to local or University Police, the police are required to notify you that your name will become a matter of public record unless confidentiality is requested.\(^10\) If you request that your identity be kept confidential, your name will not become a matter of public record and the police will not report your identity to anyone else at the University, including the Title IX Coordinator. University Police will, however, report the facts of the incident itself to the Title IX Coordinator being sure not to reveal to the Title IX Coordinator your name/identity, or compromise their own criminal investigation.

The University is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while the University will report the type of incident in the annual crime statistics report known as the Annual Security Report, your name/identity will not be revealed.

**Reporting to the Title IX Coordinator and Other University Employees**

Most University employees have a duty to report incidents of sexual misconduct, dating and domestic violence, and stalking when they are on notice of it. When you tell the Title IX Coordinator or another University employee about an incident, you have the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. *In all cases, we strongly encourage victims to report sexual misconduct, dating and domestic violence, and stalking directly to the Title IX Coordinator.*

As detailed above, all University employees except physicians, licensed counselors, sexual assault victim’s advocates must report to the Title IX Coordinator all relevant details about incidents of which they become aware. The University will need to determine what happened – and will need to know the names of the victim(s) and the perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the incident.

To the extent possible, information reported to the Title IX Coordinator or other University employee will be shared only with individuals responsible for handling the University’s response

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to the incident. The University will protect the privacy of individuals involved except as otherwise required by law or University policy. A report may result in the gathering of extremely sensitive information about you and other individuals in the Campus community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a reported incident. In such cases, efforts will be made to redact the records, as appropriate, in order to protect your identity and privacy and the privacy of other involved individuals.

The Title IX Coordinator can be reached at:

[INSERT CONTACT INFO FOR TITLE IX COORDINATOR]

If you request of the Title IX Coordinator or another University employee that your identity remain completely confidential, the Title IX Coordinator will explain that the University cannot always honor that request and cannot guarantee complete confidentiality. If you wish to maintain confidentiality or request that no investigation be conducted or disciplinary action taken, the University must weigh that request against the University’s obligation to provide a safe, non-discriminatory environment for all students, employees and third parties, including you. Under those circumstances, the Title IX Coordinator will determine whether your request for complete confidentiality and/or no investigation can be honored under the facts and circumstances of the particular case, including whether the University has a legal obligation to report the incident, conduct an investigation or take other appropriate steps. Without information about your identity, the University’s ability to meaningfully investigate the incident and pursue disciplinary action against the perpetrator may be severely limited.

The Title IX Coordinator will inform you prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University’s response. The Title IX Coordinator will remain mindful of your well-being, and will take ongoing steps to protect you from retaliation or harm, and work with you to create a safety plan. Retaliation against you, whether by students or employees, will not be tolerated. The University and Title IX Coordinator will also:

- Provide interim remedies requested by you, if they are reasonably available, regardless of whether you choose to report sexual misconduct, dating or domestic violence, or stalking to Campus or local police;
- Assist you in accessing other available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off campus;
• Provide other security and support, which could include issuing a no-contact order, helping arrange a change of Campus-based living or working arrangements or course schedules (including for the Respondent pending the outcome of the investigation) or adjustments for assignments, tests, or work duties; and
• Inform you of your right to report a crime to University or local police – and provide you with assistance if you wish to do so.

The University will not require you to participate in any investigation or disciplinary proceeding if you do not wish to participate.

The University will not generally notify parents or legal guardians of your report unless you are under the age of 18 or you provide the University with written permission to do so.11

Under California law, and pursuant to University policy, certain University employees, including the Title IX Coordinator, are mandatory child abuse and neglect reporters and should explain to victims under 18 years of age that they are required to report the incident to the police.12 However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.13

Because the University is under a continuing legal obligation to address the issue of sexual misconduct, dating and domestic violence, and stalking campus-wide, any such reports (including non-identifying reports) may also prompt the University to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported incident occurred; increased education, training and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revising its policies and practices.

The Office of the Ombuds, if available on your specific Campus, provides confidential, neutral and informal dispute resolution services, provides information about University policies and procedures, and makes referrals. However, in sexual misconduct, dating and domestic violence, and stalking cases, the Ombuds as well as all other University employees (except for physicians, licensed counselors, sexual assault counselors and advocates as discussed above) must report incidents to the Title IX Coordinator.

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11 If there is a health and safety issue (e.g., immediate threat to self or others), the University may notify parents or legal guardians, regardless of the victim’s age, as allowed under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).
12 See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.
NOTE: If the University determines that the perpetrator poses a serious and immediate threat to the Campus community, a designated Campus Security Authority under the Clery Act may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the victim.

AS A REPORTER, AM I PROTECTED FROM RETALIATION?

Yes, University policies prohibit retaliation against a person who:

- Reports sexual misconduct, dating or domestic violence, or stalking;
- Assists someone with such a report; or
- Participates in any manner in any related investigation or resolution.

No officer, employee or agent of the University shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising his/her rights or responsibilities. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education. Retaliation, if proven, is a violation of University policies and may result in discipline, up to and including termination of employment or expulsion from the University.

WHAT ELSE MIGHT HAPPEN IF I NOTIFY UNIVERSITY POLICE?

Should you choose to notify University Police, you will be escorted to a safe place if necessary, and may be transported to a hospital or sexual response assault center for a medical exam. University police can also provide access to a confidential Sexual Assault Victim’s Advocate, if desired. First and foremost, the medical exam you receive from a hospital or sexual assault response center treats any physical injury or effect. The exam may include a vaginal and/or anal examination, testing, and prophylactic treatment for sexually transmitted infections and possible pregnancy.

Second, the medical exam properly collects and preserves evidence. Seeking a medical exam for treatment and evidence collection does not commit you to any particular course of action, and your medical records are confidential.

WHAT CSU PROCEDURES ARE AVAILABLE?

The University has formal written procedures that provide for a Campus investigation of reports of sexual misconduct, dating and domestic violence, and stalking, written findings sent to the Complainant and the Respondent, and a review of the campus investigative findings by the CSU Chancellor’s Office. The procedure for CSU employees and third parties is separate from, but
similar to the procedure for CSU students. Your Campus Title IX Coordinator can explain these procedures in detail.

At the conclusion of the University’s complaint procedure, any employee or student found to have violated University policy will be subject to discipline. Discipline would be administered consistent with applicable collective bargaining agreements and MPP/confidential personnel plans (for employees), University policies and legal requirements. *As the victim, you are not required to participate in any University disciplinary procedure and may choose not to be a part of it.* Disciplinary procedures for sexual misconduct, dating and domestic violence, and stalking will:

- Provide a prompt, fair, and impartial process and resolution;
- Be conducted by officials who receive annual training on sexual misconduct, dating and domestic violence, and stalking, including how to conduct a process that protects the safety of victims and promotes accountability;
- Provide the Complainant and the Respondent the same opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
- Simultaneously inform the Complainant and the Respondent in writing of:
  - The outcome of the disciplinary proceeding;
  - The procedures available to appeal the results of the disciplinary proceeding;
  - Any change to the disciplinary results that occurs prior to the time such results become final; and
  - When disciplinary results become final.

**WHAT ARE SEXUAL MISCONDUCT, DATING AND DOMESTIC VIOLENCE, STALKING, AND AFFIRMATIVE CONSENT?**

**Sexual Misconduct:** All sexual activity between members of the CSU community must be based on affirmative consent. Engaging in any sexual activity without first obtaining affirmative consent to the specific activity is sexual misconduct, whether or not the conduct violates any civil or criminal law.

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**14 Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Employees and Third Parties and Procedure for Addressing Such Complaints by Employees and Third Parties); Executive Order 1097 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Students and Systemwide Procedure for Addressing Such Complaints by Students); Executive Order 1095 (Systemwide Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking Policy.)**

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Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, sexual assault, sexual battery, rape, and dating violence. When it is based on gender, domestic violence and stalking also constitute sexual misconduct. Sexual misconduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person’s intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person’s incapacitation (including voluntary intoxication). Men as well as women can be victims of these forms of sexual misconduct. Sexual activity with a minor is never consensual when the Complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

a. Sexual Assault is a form of sexual misconduct and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person’s gender or sex.

b. Sexual Battery is a form of sexual misconduct and is any willful and unlawful use of force or violence upon the person of another because of that person’s gender or sex as well as touching an intimate part of another person against that person’s will and for the purpose of sexual arousal, gratification, or abuse.

c. Rape is a form of sexual misconduct and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical disability renders a person incapable of giving consent. The Respondent’s relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of affirmative consent below.)

d. Acquaintance Rape is a form of sexual misconduct committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. (See above for definition of Rape.)

Dating Violence is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim. This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, “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. Abuse does not include non-physical, emotional distress or injury.
Domestic Violence is abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the abuser has a child; someone with whom the abuser has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabiting means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. 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. For purposes of this definition, “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. Abuse does not include non-physical, emotional distress or injury.

Stalking means engaging in a repeated course of conduct directed at a specific person that would cause a reasonable person to fear for his/her or others’ safety or to suffer substantial emotional distress. For purposes of this definition:

- Course of Conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property;

- Reasonable Person means a reasonable person under similar circumstances and with the same protected statuses as the Complainant;

- Substantial Emotional Distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

Affirmative Consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean affirmative consent, nor does silence mean affirmative consent. Affirmative consent must be voluntary, and given without coercion, force, threats, or intimidation.

The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of affirmative consent. A request for someone to use a condom or birth control does not, in and of itself, constitute affirmative consent.
Affirmative consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity (or other sexual acts). Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once affirmative consent is withdrawn or revoked, the sexual activity must stop immediately.

Affirmative consent cannot be given by a person who is incapacitated. A person is unable to consent when s/he is asleep, unconscious, or is incapacitated due to the influence of drugs, alcohol or medication so that s/he could not understand the fact, nature, or extent of the sexual activity. A person is incapacitated if s/he lacks the physical and/or mental ability to make informed, rational decisions.

Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person’s decision-making ability, awareness of consequences, and ability to make informed judgments. Intoxication or incapacitation from drugs or alcohol does not diminish a person’s responsibility to obtain affirmative consent before engaging in sexual activity.

A person with a medical or mental disability may also lack the capacity to give consent.

Sexual activity with a minor (a person under 18 years old) is never consensual, because a minor is considered incapable of giving consent due to age.

It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:

- The person was asleep or unconscious;
- The person was incapacitated due to the influence of drugs, alcohol, or medication, so that the person could not understand the fact, nature, or extent of the sexual activity;
- The person was unable to communicate due to a mental or physical condition.

It shall not be a valid excuse to alleged lack of affirmative consent that the Respondent believed that the person consented to the sexual activity under either of the following circumstances:

- The Respondent’s belief in affirmative consent arose from the intoxication or recklessness of the Respondent;
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented.
Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf
October 5, 2016

MEMORANDUM

TO: CSU Presidents

FROM: Timothy P. White
Chancellor

SUBJECT: Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide Procedure for Addressing Such Complaints by Students

Executive Order 1097 Revised October 5, 2016

Attached is a copy of Executive Order 1097 Revised October 5, 2016, which supersedes Executive Order 1097 Revised June 23, 2015. This policy and procedure applies systemwide, in conjunction with Executive Order 1095 Revised June 23, 2015 (and any superseding related executive orders).

These revisions incorporate amendments to the Fair Employment and Housing Act (FEHA) Regulations. They are technical in nature, expand the use of gender neutral language, or clarify existing policy and procedure. Complaints filed on or after the effective date of this executive order shall be processed in accordance with the procedures outlined herein, utilizing the policy (and definitions) set forth in the executive order in place at the time of the alleged misconduct.

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

If you have questions regarding this executive order, please call systemwide Equal Opportunity and Compliance at (562) 951-4400.

TPW/lh

Attachments
c: CSU Office of the Chancellor Leadership
   Provosts
   Vice Presidents, Administration and Finance
   Vice Presidents, Student Affairs
   DHR Administrators
   Human Resources Officers
   Title IX Coordinators
Article I. Policy Statement

The California State University (CSU) is committed to maintaining an inclusive community that values diversity and fosters tolerance and mutual respect. We embrace and encourage our community differences in Age, Disability (physical and mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, and Veteran or Military Status, and other characteristics that make our community unique.¹ All Students have the right to participate fully in CSU programs and activities free from Discrimination, Harassment, and Retaliation. The CSU prohibits Harassment of any kind, including Sexual Harassment, as well as Sexual Misconduct, Dating and Domestic Violence, and Stalking. Such misconduct violates University policy and may also violate state or federal law.

All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific sexual activity is Sexual Misconduct and constitutes a violation of this policy, whether or not the sexual activity violates any civil or criminal law.

This policy is established in compliance with the California Equity in Higher Education Act, Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Security and Campus Crimes Statistics Act, commonly known as the Clery Act) (VAWA) under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act), Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities

¹ Key capitalized terms are defined at Article VI of this Executive Order. Please see that Article for the full definitions. Terms contained within this policy and procedure are intended to be gender neutral.

A. **Prohibited Conduct.** The CSU prohibits:

1. Discrimination, including Harassment, because of any Protected Status: i.e., age, Disability (physical and mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, sex stereotype, and Veteran or Military Status;

2. Retaliation for exercising rights under this policy, opposing Discrimination or Harassment because of a Protected Status, or for participating in any manner in any related investigation or proceeding;

3. Dating and Domestic Violence, and Stalking;

4. Sexual Misconduct of any kind, which includes sexual activity engaged in without Affirmative Consent; and,

5. Employees from entering into a consensual relationship with any Student over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. See Article I. F.

The University shall respond promptly and effectively to all complaints of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and shall take appropriate action to prevent, correct, and discipline conduct that violates this policy. This Executive Order is intended to protect the rights and privacy of both the Complainant and the Respondent, as well as other involved individuals.

Employees and Students who are found to have violated this policy shall be subject to discipline commensurate to the violation. If Employee discipline is warranted, it shall be administered in a manner consistent with applicable collective bargaining agreements, CSU policies, and legal requirements. Student discipline shall be administered in accordance with 5 Cal. Code Regs. § 41301 and Executive Order 1098, or any superseding executive order.

B. **Discrimination.** The CSU strives to be free of all forms of Discrimination, including Harassment, because of a Protected Status. It is CSU policy that no Student shall be excluded from participation in, or be denied the benefits of, any CSU program or activity because of any Protected Status.

C. **Retaliation.** Retaliation against a Student for exercising any rights under this policy or for opposing Discrimination or Harassment because of a Protected Status, Sexual
Misconduct, Dating and Domestic Violence, and Stalking, or for participating in any manner in any policy-related investigation or proceeding is prohibited.

No victim or witness in related investigations or proceedings will be subject to disciplinary sanctions by the University for related violations of conduct policies occurring at or near the time of the incident unless the University determines the violation was egregious, including but not limited to plagiarism, cheating, academic dishonesty or conduct that places the health and safety of any other person at risk.

D. **Dating and Domestic Violence, and Stalking.** The CSU prohibits Dating and Domestic Violence, and Stalking. Dating and Domestic Violence, and Stalking are often based on Gender. CSU prohibits all such misconduct whether or not it is based on Gender.

E. **Sexual Misconduct.** All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity constitutes Sexual Misconduct and is a violation of this policy, whether or not the conduct violates any civil or criminal law.

Sexual Misconduct is a form of Sexual Harassment and may create a sexually hostile environment that affects access to or participation in CSU programs and activities. CSU prohibits all such conduct whether or not it also amounts to Sexual Harassment.

Sexual activity includes but is not limited to kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex.

Affirmative Consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be voluntary, and given without coercion, force, threats or intimidation.

The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent. A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent.

Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.
Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious or incapacitated due to the influence of drugs, alcohol or medication so that the person could not understand the fact, nature or extent of the sexual activity. A person is incapacitated if the person lacks the physical and/or mental ability to make informed, rational decisions.

Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person’s decision-making ability, awareness of consequences, and ability to make informed judgments. A person’s own intoxication or incapacitation from drugs or alcohol does not diminish that person’s responsibility to obtain Affirmative Consent before engaging in sexual activity.

A person with a medical or mental disability may also lack the capacity to give consent.

Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.

It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:

- The person was asleep or unconscious;
- The person was incapacitated due to the influence of drugs, alcohol or medication, so that the person could not understand the fact, nature or extent of the sexual activity;
- The person was unable to communicate due to a mental or physical condition.

It shall not be a valid excuse that the Respondent believed that the person consented to the sexual activity under either of the following circumstances:

- The Respondent’s belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent;
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented.

**F. Consensual Relationships.** Consensual relationship means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship. While sexual and/or romantic relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Discrimination,
Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking subject to this policy.

A CSU Employee shall not enter into a consensual relationship with a Student or Employee over whom that employee exercises or influences direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. In the event such a relationship already exists, each Campus shall develop a procedure to reassign such authority to avoid violations of this policy.

This prohibition does not limit the right of an Employee to make a recommendation on personnel matters concerning a family or household member where the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or MPP/confidential personnel plan.

G. Reasonable Accommodations. The CSU will provide reasonable accommodations to qualified individuals with a Disability. Reasonable accommodations will be determined by the Campus following an interactive process with those involved to identify the nature and extent of the restrictions and the appropriate accommodation.

H. Duty to Report. Except as provided below, any Employee who knows or has reason to know of allegations or acts that violate this policy shall promptly inform the DHR Administrator or Title IX Coordinator. These Employees are required to disclose all information including the names of the Parties, even where the person has requested anonymity. The DHR Administrator or Title IX Coordinator will determine whether such confidentiality is appropriate given the circumstances of each such incident.

Employees Who Do Not Have A Duty to Report:

1. The following Employees are not required to report any information about an incident of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking to the DHR Administrator or Title IX Coordinator:

   a. Physicians; psychotherapists; professional licensed counselors; licensed clinical social workers, and clergy who work on or off Campus, acting solely in those roles or capacities as part of their employment, in the provision of medical or mental health treatment or counseling (and those who act under their supervision, including all individuals who work or volunteer in these centers and offices); and

   b. Sexual assault and domestic violence counselors and advocates who work or volunteer on or off Campus in sexual assault centers, victim advocacy offices, women’s centers, and health centers and who are acting solely in that role (including those who act in that role under their supervision, along with non-professional counselors or advocates who work or volunteer in sexual assault centers, victim advocacy offices, women’s centers, gender equity centers, or health centers) in the provision of counseling or advocacy services.
c. A CSU employee/union representative is not required to report a possible violation of this Executive Order if the information is provided to the union representative, acting in that role, in a confidential setting by a union member seeking advice about a possible violation or representation in a matter within the scope of representation. However, CSU employee/union representatives are strongly encouraged to report the information to the DHR Administrator or Title IX Coordinator.

2. University police are not required to report any personally-identifiable information about a victim of certain sex offenses, if the victim requests confidentiality of identity, but must report all known facts of the incident, including the identity of the perpetrator (if known), to the Title IX Coordinator.

**EXCEPTIONS:** Under California law, any health practitioner employed in a health facility, clinic, physician’s office, or local or state public health department or clinic is required to make a report to local law enforcement if medical services are provided for a physical condition to a patient/victim who the practitioner knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm; or, (2) any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive conduct. This exception does not apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to victims, if applicable.

Additionally, under California law, all physicians, psychotherapists, professional counselors, clergy, and sexual assault and domestic violence counselors and advocates are mandatory child abuse and neglect reporters, and are required to report incidents involving victims under 18 years of age to local law enforcement. These professionals will explain this limited exception to victims, if applicable.

Finally, some or all of these professionals may also have reporting obligations under California law to: (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger; or, (2) to the court if compelled by court order or

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2 See Cal. Penal Code § 293; Cal. Gov. Code § 6254(f)(2) (“The name of a victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor.”)

3 Assaultive or abusive conduct is defined to include a list of 24 criminal offenses, including Sexual Battery, incest, Rape, spousal Rape, abuse of a spouse or cohabitant, and any attempt to commit these crimes. See Cal. Penal Code §§ 11160-11163.2.

4 See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.

subpoena in a criminal proceeding related to the Sexual Misconduct, Dating or Domestic Violence, or Stalking incident.\textsuperscript{6} If applicable, these professionals will explain this limited exception to victims.

I. **Grade Appeals.** Grade appeals that allege Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking shall proceed concurrently: (i) under Campus procedures per Executive Order 1037 or any superseding executive order; and (ii) under this Executive Order. However, the Campus grade appeal procedure shall be placed in abeyance until such time as the Campus investigation and any appeal process under Article IV of this Executive Order have concluded. The final determination under this Executive Order regarding whether a violation occurred shall be provided to the Campus grade appeal committee. The committee shall be bound by such determination when considering the grade appeal request under Executive Order 1037.

Article II. **Policy Implementation and Communication**

Each Campus president shall designate a DHR Administrator and Title IX Coordinator who shall be responsible for the implementation of and compliance with this policy. The DHR Administrator is responsible for the implementation of and compliance with this policy with respect to all Discrimination, Harassment and Retaliation matters except those involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The DHR Administrator is responsible for publicizing this Executive Order, developing Campus training policies consistent with this Executive Order, conducting training, and establishing an administrative structure consistent with this Executive Order that facilitates the prevention and elimination of Discrimination, Harassment, and Retaliation. The Title IX Coordinator is responsible for the implementation of, and compliance with this policy with respect to Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The Title IX Coordinator is responsible for publicizing this Executive Order, developing Campus training policies consistent with this Executive Order, conducting training, and establishing an administrative structure consistent with this Executive Order that facilitates the prevention and elimination of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. Each Campus shall make the contact information for the DHR Administrator and Title IX Coordinator available to all members of the Campus community as well as Third Parties. The contact information shall be updated as necessary.

The requirements for training to promote awareness of CSU policies against Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking are set forth in Executive Order 1095.

This Executive Order shall be made readily available and distributed on an annual basis to all Students and Employees utilizing multiple media for communication, including email, Student orientations and catalogs, new Employee orientations, Campus websites and publications, and

the webpages for the offices of Equity and Diversity, Student Affairs, Student Judicial Affairs, Disabled Student Services, Auxiliary Service Organizations, Academic Affairs, Extended Education, Athletics, Residential Life, and Human Resources.

Article III. Campus Procedure for Responding to Complaints

This procedure provides Students a process to address alleged violations of this policy by the CSU, a CSU Employee, another Student, or a Third Party. Whenever a Campus determines that the allegation(s) are outside the scope of this policy, the Campus shall promptly notify the Student in writing. All Complaints and related investigations against Respondents who are sworn University public safety officers shall be governed by this policy, the applicable collective bargaining agreement, and by the Public Safety Officers Procedural Bill of Rights Act (POBR). 7 The campus DHR Administrator/Title IX Coordinator shall work with the campus Chief of Police, or designee, to investigate Complaints against sworn public safety officers. Consultation with the Office of General Counsel is recommended.

The University will respond to all Complaints and will take appropriate action to prevent, correct, and discipline conduct that violates this policy. To report alleged violations, a Student may submit a formal written Complaint to the DHR Administrator (Discrimination, Harassment, and Retaliation) or Title IX Coordinator (Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking). The date of receipt shall be deemed to be the Complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to Students who are unable to submit a Complaint because of a qualified Disability.

Complaints should be brought forward as soon as possible after the conduct occurs. While there is no stated timeframe for making a Complaint, prompt reporting will better enable the Campus to respond to the Complaint, determine the relevant issues, and provide an appropriate remedy and/or action. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

The Campus will respond to all reports of alleged violations of this policy, whether or not the report is submitted as a formal written Complaint. However, the response may be limited if information contained in the report is insufficient to verify violation(s) of this Executive Order.

A. Campus Early Resolution Process. Complainants who believe they have experienced Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking under this policy may initiate the Early Resolution process prior to, or instead of, filing a Complaint. The purpose of the Early Resolution process is to explore whether the Complainant’s concern can be resolved by the Campus without an investigation.

This Executive Order neither prevents nor requires the use of the Early Resolution process. Under no circumstance shall a Complainant be required to use the Early Resolution process to address prohibited behaviors. It is not appropriate for a Complainant to be required to “work out the problem” directly or mediate with the Respondent. Mediation cannot be used, even on a voluntary basis, to resolve Sexual Misconduct, Dating or Domestic Violence, or Stalking Complaints. In other matters, where voluntary mediation is requested, no meeting between the Complainant and the Respondent should occur without involvement by appropriate Campus administrators, including the DHR Administrator or Title IX Coordinator.

Where the allegations involve Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Complainant shall be advised to immediately file a Complaint under Article III, B.

1. **To initiate the Early Resolution Process.** The Complainant should contact the Campus DHR Administrator (Discrimination, Harassment, or Retaliation) or Title IX Coordinator (Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence and Stalking) who shall promptly meet with the Complainant to discuss his or her concern and possible resolutions as appropriate.

   Complainants shall be informed about the range of possible outcomes, including Interim Remedies or disciplinary actions that might be taken against the Respondent, and information about the procedures leading to such outcomes.

2. **Participation in the Early Resolution Process.** Participation is voluntary. It may include an inquiry into the facts, but does not include an investigation. Means for resolution shall be flexible. Resolution options include but are not limited to discussions with the Parties, a resolution facilitated by the DHR Administrator or Title IX Coordinator, separating the Parties, referring one or both of the Parties to counseling programs, an agreement between Campus and the Respondent regarding disciplinary action, conducting targeted preventive educational and training programs or providing Remedies to persons harmed by violations of this policy.

   The Campus shall attempt to resolve the Complainant’s concern(s) quickly and effectively. The DHR Administrator or Title IX Coordinator shall meet with the Complainant, the Respondent, and any other persons or witnesses they may determine to be necessary.

3. **Final Early Resolution.** If resolution is reached, a written record of the resolution shall be documented and maintained in accordance with applicable Campus recordkeeping policies. The matter shall be considered closed.

   Where the Respondent is another Student, the DHR Administrator/Title IX Coordinator shall inform the Student Conduct Administrator of the outcome of the Early Resolution process, including any Interim Remedies afforded to the
Executive Order 1097
Revised October 5, 2016

Complainant. Where the Respondent is an Employee, Human Resources or Academic Affairs shall be informed as appropriate.

If resolution is not reached, the Campus shall promptly notify the Complainant and, where applicable, the Respondent in writing that the Early Resolution process is terminated, and the termination effective date. The DHR Administrator/Title IX Coordinator shall also determine whether the matter is appropriate for investigation, and so notify the parties in writing. The Complainant shall be provided written notification of the right to file a Complaint pursuant to Article III, B. 1.

4. **Confidentiality.** Other than consulting with their respective Advisors, both the Complainant and the Respondent shall keep the details of the Early Resolution process confidential until the process is concluded. If the matter is not resolved and an investigation is conducted, the Complainant and the Respondent shall maintain confidentiality until the conclusion of the Campus investigation and CO Appeal Review process, if any.

5. **Termination of Early Resolution Process.** The Complainant shall be notified that the Complainant or the Campus may at any time elect to terminate the Early Resolution process. In that event, the DHR Administrator/Title IX Coordinator shall promptly notify the Complainant and the Respondent in writing that the Early Resolution process has terminated, the effective date thereof, and inform the Complainant of the right to file a Complaint pursuant to Article III, B. 1. The DHR Administrator/Title IX Coordinator shall also determine whether the matter is appropriate for investigation, and so notify the parties in writing.

B. **Campus Investigation Process.** Campuses will investigate Complaints of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking unless an Early Resolution is reached, whether or not a formal written Complaint is submitted. The DHR Administrator/Title IX Coordinator will determine whether to open an investigation after making a preliminary inquiry into the allegations. An investigation may not be warranted where the reported information is insufficient. These determinations will be documented in writing by the DHR Administrator/Title IX Coordinator, and maintained in accordance with systemwide records retention policies.

In cases where the Complainant does not want to pursue an investigation, the DHR Administrator/Title IX Coordinator should inform the Complainant that the ability to take corrective action may be limited. The Campus may determine that circumstances warrant initiating an investigation even if a Complaint has not been filed and independent of the intent or wishes of the Complainant. In cases involving Sexual Misconduct, Dating or Domestic Violence, or Stalking, when determining whether to go forward with an investigation, the Title IX Coordinator should consider the seriousness of the allegation(s), the age of the Complainant, whether there have been other Complaints against the Respondent, and the risk to the Campus community if the Respondent’s
alleged conduct remains unaddressed. These determinations will be documented in writing by the DHR Administrator/Title IX Coordinator, and maintained in accordance with systemwide records retention policies.

1. **Filing a Complaint.** Any Student may file a Complaint reporting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking under this policy subject to the following exceptions:

   a. Complaints of Student employees that arise out of their employment. Such Complaints shall be governed by Executive Order 1096, or any superseding executive order.

   b. Complaints by a Student about his/her academic adjustments and/or accommodations to a Campus’s educational program related to his/her qualified Disability. Such inquiries and Complaints shall be directed to the Campus Director, Disabled Student Services (DSS), and shall be governed by CSU Coded Memorandum AA 2014-08, or any superseding policy.

   c. Complaints against a president shall be filed with the Chancellor’s Office (CO). However, Complaints against a president shall be processed by the Campus if the president’s role in the alleged incident was limited to a decision on a recommendation made by another administrator, and the president had no other substantial involvement in the matter.

   d. For Complaints against CO employees, the responsibilities identified in this Executive Order as those of the president are the responsibilities of the chancellor. Complaints that involve allegations against the chancellor or a member of the Board of Trustees shall be referred to the chair or vice chair of the Board and the CO Title IX Coordinator for processing and investigation.

2. **Complaint Requirements.** The Complainant may submit a written Complaint to the DHR Administrator or Title IX Coordinator. The date the Complaint is received in the appropriate office shall be deemed to be the Complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to Complainants who are unable to submit a written Complaint because of a qualified Disability.

The Complainant may complete the attached “CSU Student Complaint Form” or, in the alternative, submit a written signed statement containing the following information:

   a. The Complainant’s full name, address (including email address) and telephone number(s);
b. The name of the Respondent and job title, position or Student status, if known;

c. The Protected Status that is the basis for any alleged Discrimination, Harassment, or Retaliation, the Respondent’s activity that is the basis for the alleged Retaliation, or whether Dating or Domestic Violence, or Stalking is alleged;

d. A clear, concise statement of the facts that constitute the allegations including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of any investigation;

e. A statement verifying that the information provided is true and accurate to the best of the Complainant’s knowledge;

f. The term and year of the Complainant’s most recent active academic status or the term and year in which the Complainant sought admission to the University;

g. The full name, address and telephone number of the Complainant’s Advisor, if any;

h. The specific harm resulting from the allegations;

i. The specific remedy sought;

j. The Complainant’s signature; and,

k. The date on which the Complaint is submitted.

3. **Intake interview.** The DHR Administrator or Title IX Coordinator shall meet with the Complainant as soon as possible, but no later than **10 Working Days** after the Complaint was received. The Complainant shall be available for and attend this meeting.

a. The meeting shall serve as the initial intake interview with the Complainant and will:

   (i) Explain the investigation procedure and timelines and answer any questions about them;

   (ii) Inform the Complainant of rights and options under this Executive Order, including the right to have an Advisor throughout the process;
(iii) Provide the opportunity for the Complainant to complete and sign a Complaint form, if not already done; and,

(iv) Discuss Interim Remedies, as appropriate.

b. In cases alleging Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Title IX Coordinator shall also:

(i) Inform the Complainant of the right to file a criminal complaint;

(ii) Offer to assist the Complainant with filing a criminal complaint;

(iii) Assure the Complainant that such filing will not significantly delay the Campus investigation;

(iv) Advise the Complainant of available resources such as the Campus police, Campus Sexual Assault Victim’s Advocate, student health service center or psychological counseling center; and

(v) Provide written information, as directed under Executive Order 1095, to any Student who makes a report to the Campus of Sexual Misconduct, Dating or Domestic Violence, or Stalking.

c. Prior to or during the initial interview with the Respondent, the DHR Administrator or Title IX Coordinator shall:

(i) Explain the investigation procedure and timelines and answer any questions about them;

(ii) Inform the Respondent of rights and options under this Executive Order, including the right to have an Advisor throughout the process;

(iii) Provide the Respondent with a copy of this Executive Order;

(iv) Provide the Respondent with a description of the Complainant’s allegations against the Respondent;

(v) Provide the Respondent a full opportunity to respond to the allegations, including scheduling other meeting(s), accepting documentary evidence, and accepting Respondent’s list of potential witnesses; and,

(vi) Discuss any Interim Remedies, as appropriate.
4. **Advisor.** The Complainant and the Respondent may elect to be accompanied by an Advisor to any meeting or interview regarding the Complaint. (See definition in Article VI.)

5. **Confidentiality.** Information regarding the Complaint may be shared on a “need to know” basis with other Campus Employees, and with law enforcement (with the Complainant’s written consent), except for some limited exceptions. (See Executive Order 1095.) The DHR Administrator and/or Title IX Coordinator shall endeavor to honor any request for confidentiality; however, the DHR Administrator and/or Title IX Coordinator shall also weigh requests for confidentiality against the University’s duty to provide a safe and nondiscriminatory environment for all members of the Campus community. **Confidentiality, therefore, cannot be ensured.**

The Title IX Coordinator receives all Complainant requests for confidentiality involving cases of Sexual Misconduct, Dating or Domestic Violence, or Stalking, and determines if the request can be honored under the facts and circumstances of the particular case. (See Executive Order 1095.)

6. **Complaint Accepted for Investigation.** The DHR Administrator or Title IX Coordinator will review all written Complaints and the information received during the intake interview with the Complainant. If the DHR Administrator or Title IX Coordinator determines that the Complaint falls within the scope of this Executive Order, the Complainant will be notified within **10 Working Days** that the Complaint has been accepted for investigation and the timeline for completion of the investigation.

If the DHR Administrator or Title IX Coordinator determines the Complainant has failed to state a Complaint within the scope of this Executive Order, the Complainant will be provided with written notice of this determination within **10 Working Days.** The DHR Administrator or Title IX Coordinator will also inform the Complainant that if additional information is provided, the Complaint will be reviewed again. The DHR Administrator or Title IX Coordinator will maintain a record of the Complaint and the reasons the Complaint was deemed not within the scope of this Executive Order.

The DHR Administrator or Title IX Coordinator shall determine whether the Complaint should be processed through another Campus office or University procedure available to the Complainant. If appropriate, the DHR Administrator or Title IX Coordinator shall direct the Complainant to that procedure as soon as possible.

7. **Investigation Procedure.** The DHR Administrator or Title IX Coordinator shall promptly investigate the Complaint or assign this task to another Investigator on a case-by-case basis. If assigned to another Investigator, the DHR Administrator or Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks,
including reviewing all investigation draft reports before they are final to ensure that
the investigation was sufficient, appropriate, impartial, and in compliance with this
Executive Order.

The Complainant and the Respondent shall have equal opportunities to present
relevant witnesses and evidence in connection with the investigation. Upon inquiry,
the Complainant and Respondent shall be advised of the status of the investigation.

Before reaching a final conclusion or issuing a final investigation report, the
Investigator shall have: a) advised the Parties, or have offered to do so, verbally or in
writing, of any evidence upon which the findings will be based; and, b) given the
Parties an opportunity to respond to the evidence, including presenting further
relevant evidence, information or arguments that could affect the outcome. The
Investigator will not reach a final conclusion or issue an investigation report until
giving careful consideration to any such relevant evidence, information or arguments
provided by the Parties. The Investigator retains discretion and authority to determine
relevance.

The investigation shall be completed no later than 60 Working Days after the intake
interview, unless the timeline has been extended pursuant to Article V. E. The
timeline should not be extended for a period longer than an additional 30 Working
Days from the original due date.

On occasion, a criminal investigation may be initiated by a law enforcement agency
over the same allegations that are reported in a Complaint filed under this policy. A
pending (Campus or local) police investigation is a separate investigation and it does
not relieve a Campus of its responsibility to timely investigate Complaints under this
policy. Thus, a Campus may not wait until the conclusion of a police investigation to
commence its own investigation. Although it may be necessary to temporarily delay
the investigation while the police are gathering evidence, once notified that the police
have completed the fact gathering portion of their investigation, the Campus must
promptly resume and complete its own investigation. In cases involving Sexual
Misconduct, Dating or Domestic Violence, or Stalking, see the “Coordination with
Criminal Investigations and Proceedings” section of Executive Order 1095.

8. Investigation Report. Within the investigation period stated above, the Investigator
shall prepare an investigation report. The report shall include a summary of the
allegations, the investigation process, the Preponderance of the Evidence standard, a
detailed description of the evidence considered, and appropriate findings. Relevant
exhibits and documents, if any, shall be attached to the written report. The report shall
be promptly provided to the DHR Administrator or Title IX Coordinator, if
applicable. The DHR Administrator or Title IX Coordinator shall review the
investigation report to assure compliance with this Executive Order before proceeding
further.
9. **Notice of Investigation Outcome.** Within 10 Working Days of issuance of the final investigation report, the DHR Administrator or Title IX Coordinator shall notify the Complainant and Respondent in writing of the outcome of the investigation. The notice shall include a summary of the allegations, the investigative process, the Preponderance of the Evidence standard, the evidence considered, the findings of fact, a determination as to whether this Executive Order was violated, and if so, any Remedies to be afforded to the Complainant (such as an order that the Accused not contact the Complainant). The notice shall advise the Complainant and Respondent of their right to file an appeal under this Executive order and to request a copy of the final investigation report with exhibits/attachments, if any, redacted as appropriate. The Notice shall be delivered to the Parties in a manner which guarantees delivery within 2 Working Days (email delivery is acceptable). Where a Complaint is made against another Student and this Executive Order is found to have been violated, the DHR Administrator or Title IX Coordinator shall also notify the Campus Student Conduct Administrator of the investigation outcome, and provide a copy of the investigation report. Where the Respondent is an Employee, Human Resources or Academic/Faculty Affairs shall be notified and provided a copy of the investigation report.

**Article IV. Appeal Review - Office of the Chancellor (CO)**

A. **Filing an Appeal to the CO.** Any Complainant or Respondent who is not satisfied with a Campus investigation outcome may file an appeal with the CO no later than 10 Working Days after the date of the Notice of Investigation Outcome.

B. **Written Appeal.** The appeal shall be in writing and shall be based only on one or more of the appeal issues listed below:

1. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard;

2. Prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with this Executive Order; or

3. New evidence not available at the time of the investigation.

C. **Issues and Evidence on Appeal.** The issues and evidence raised on appeal shall be limited to those raised and identified during the investigation, unless new evidence becomes available after the Campus investigation process and is made part of the appeal by the appealing party. The CO may conduct an interview, at the CO’s discretion, with the appealing party to clarify the written appeal. Appeals shall be addressed to:
D. **Acknowledgement of Appeal.** The CO shall provide prompt written acknowledgement of the receipt of the appeal to the appealing party, and will provide written notification of the appeal to the other party and the Campus DHR Administrator or Title IX Coordinator.

E. **Reasonable Accommodation.** The CO will provide reasonable accommodation(s) to any party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. A reasonable accommodation may include an extension under these procedures. The timeframe for the CO Appeal Response will automatically be adjusted for the time needed, if any, to provide reasonable accommodation(s).

F. **Scope of CO Review.** The CO review will not involve a new investigation by the CO and will not consider evidence that was not introduced during the Campus investigation, unless the new evidence was not available at the time of the Campus investigation process. The CO may make reasonable inquiries to determine if the new evidence could have affected the investigation determination. If the CO review determines the investigation should be reopened to cure any defects in the investigation and/or consider new evidence introduced for the first time on appeal (that could have affected the investigation determination), the investigation will be remanded back to the Campus and the investigation reopened at the Campus level.

G. **Reopening a Campus Investigation.** The CO will return the matter to the Campus and will specify in writing the timeline by which a reopened investigation must be completed. The CO will notify the Parties of the reopening of the investigation and the timeline for completion of the reopened investigation. The Campus will complete the reopened investigation and provide the CO with an amended investigation report. The Campus will also provide the Parties with amended Notices of Investigation Outcome, and such Notices will provide the Parties the opportunity to appeal any new or amended findings, in accordance with this Executive Order. Upon receipt of the amended investigation report, the CO will contact the appealing party to determine whether that party wishes to continue with the appeal.

H. **Timeline.** The CO shall respond to the appealing party no later than **30 Working Days** after receipt of the written appeal unless the timeline has been extended as specified in Article V, E. below.

I. **CO Appeal Response.** The CO Appeal Response shall include a summary of the issues raised on appeal, a summary of the evidence considered, the Preponderance of the
Evidence standard, and the determination(s) reached regarding the issue(s) identified within the written appeal. A copy of the final CO Appeal Response shall be forwarded to the Complainant and Respondent, as well as the Campus DHR Administrator or Title IX Coordinator.

The CO Appeal Response is final and concludes the Complaint and CO review process under this Executive Order.

Article V. General Provisions for Campus Investigation/CO Appeal Review

A. **Impartial Investigations.** All investigations and reviews shall be conducted impartially and in good faith.

B. **Cooperation in an Investigation.** Students and Employees are required to cooperate with the investigation and other processes set forth in this Executive Order, including but not limited to, attending meetings, being forthright and honest during the process, and keeping confidential the existence and details of the investigation/appeal. If a Complainant and/or Respondent refuse to cooperate, the CSU may draw all reasonable inferences and conclusions on the basis of all available evidence and conclude the investigation/appeal.

C. **False Allegations Prohibited.** A Complainant shall proceed with a Complaint in good faith. A Complainant who knowingly and intentionally files a false Complaint or any individual who is determined to have provided false statements or information during the investigation/appeal review shall be subject to discipline. Such disciplinary action shall not be deemed to be Retaliation.

D. **Input into the Investigation.** Both the Complainant and Respondent shall have the right to identify witnesses and other evidence for consideration; however, the CSU shall decide what evidence is relevant and significant to the issues raised.

E. **Timelines and Extensions.** The timeline for the procedures contained within this Executive Order may be extended for any reason deemed to be legitimate by the Campus Investigator/CO Appeal reviewer or by mutual agreement of the Parties. The timelines stated within this Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional 30 Working Days for a Campus investigation or an additional 30 Working Days for a reopened Campus investigation under Article IV. The Complainant and Respondent shall receive written notification of any period of extension.

F. **Delivery.** When submitting a Complaint or issuing any notices required by this Executive Order, personal delivery, overnight delivery services, electronic mail, or certified mail may be used. If personal delivery is used, a proof of service shall be prepared attesting to the calendar date of delivery, which will establish the date of filing or response. If certified mail delivery is used, the postmark shall establish the date of filing or response.
Electronic communications must be sent to the designated CSU or Campus e-mail address unless the intended recipient has specified a different address. Electronic communications will be deemed received on the date sent.

G. **Investigation Not Warranted.** In the event that a Campus determines an investigation is not warranted, the reasons for that decision shall be reduced to writing and retained by the Campus according to appropriate record retention policies.

H. **Information Requests.** Where it is necessary for the Complainant or Respondent to have access to specific information for the purpose of filing a Complaint or CO Appeal, the Complainant or Respondent shall make a written request for such information to the Campus. The Complainant or Respondent shall have access to information within the policies, procedures and laws governing confidentiality and privacy that are relevant to any issue raised in the Complaint. This provision does not authorize a Complainant or Respondent access to the personnel files of another without the written consent of that person.

**Article VI. Definitions**

For purposes of this Executive Order, the following definitions apply:

A. **Adverse Action** means an action that has a substantial and material adverse effect on the Complainant's ability to participate in a University program or activity free from Discrimination, Harassment or Retaliation. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.

B. **Advisor:** The Complainant and the Respondent may each elect to be accompanied by an Advisor to any meeting or interview regarding the allegations. The Advisor may be anyone, including a union representative from the Complainant’s or Respondent’s collective bargaining unit, an attorney, or, in the case of the Complainant, a Sexual Assault Victim’s Advocate, provided the Advisor is not a person with information relevant to the allegations who may be interviewed by the Investigator during the investigation. The Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent. However, the Advisor may observe and consult with the Complainant or Respondent and take appropriate action to ensure that the investigation does not violate applicable laws, policies, or collective bargaining agreements.

C. **Affirmative Consent** means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean consent nor does silence mean consent.
Affirmative Consent can be withdrawn or revoked. Affirmative Consent cannot be given by a person who is incapacitated.

A person with a medical or mental Disability may also lack the capacity to give consent.

Sexual activity with a minor (under 18 years old) is never consensual because a minor is considered incapable of giving legal consent due to age.

See Article I, E. for more information.

D. **Age**, with respect to employment discrimination, refers to the chronological age of any individual who has reached his or her 40th birthday.\(^8\) With respect to discrimination in non-employment programs and activities, Age means how old a person is, or the number of years from the date of a person’s birth.\(^9\) Age based stereotype refers to generalized opinions about matters including the qualifications, job performance, health, work habits, and productivity of individuals over forty.

Age is a Protected Status.

E. **Calendar Days** are defined as Monday through Sunday and include official holidays.

F. **California State University (CSU)** means the 23 Campus system of the California State University, including the CO.

G. **Campus or University** means any of the 23 Campuses of the CSU or the CO.

H. **CO Appeal Response** refers to the decision provided to the Complainant and the Respondent upon completion of the appeal process provided under Article IV.

I. **Complainant** means an individual who is eligible to file a Complaint or to report a violation of this policy. See Article III. B. 1 for a description of those eligible to file a Complaint. It also includes any person who is reported to have experienced a violation of this policy in cases where some other person has made a report on that person’s behalf. A Complainant may also be referred to as a party to the Complaint.

J. **Complaint** means a report of a violation of this policy or a written communication that complies with Article III. B. 2 alleging Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking, against the CSU, an Employee, another Student, or a Third Party.

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\(^9\) See 34 C.F.R. 110.3
K. **Dating Violence** is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim.\(^{10}\) This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, “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 self or another. Abuse does not include non-physical, emotional distress or injury.

L. **DHR (Discrimination, Harassment, and Retaliation) Administrator** means the Management Personnel Plan (MPP) Employee at each Campus who is designated to administer this Executive Order and coordinate compliance with the laws prohibiting Discrimination, Harassment and Retaliation. The DHR Administrator may delegate tasks to one or more designees, provided that any designee shall be a MPP Employee or an external consultant, and the DHR Administrator retains overall responsibility and authority. **MPP Employee** means an employee who has been designated as a “management” or “supervisory” employee under the provisions of the Higher Education Employer-Employee Relations Act.\(^{11}\) The Campus president may assign the roles of the DHR Administrator and Title IX Coordinator to the same person. The names of, and contact information for the DHR Administrator and Title IX Coordinator shall be made readily available to the Campus community and Third Parties as described in Article II.

M. **Disability**, as defined in California Education Code §66260.5, Government Code § 12926 and the federal Americans with Disabilities Act (ADA), 2008 Amendments, means:

1. Having a physical or mental condition that limits a major life activity. “Limits” means making the achievement of a major life activity difficult. “Limits” is determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A “major life activity” is broadly construed and includes physical, mental, and social activities (such as walking, talking, seeing, hearing) and working; or
2. Having a known history of a qualifying impairment; or
3. Being regarded or treated as having or having had a qualifying impairment; or
4. Being regarded or treated as having or having had such an impairment that has no presently disabling effects but may become a qualifying impairment in the future.

Disability includes HIV and AIDS. Disability is a Protected Status.

N. **Discipline** means any disciplinary action taken to correct a violation of the prohibitions against Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking set forth in this Executive Order. Discipline for

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\(^{10}\) See Cal. Penal Code § 13700 (b).

\(^{11}\) See Cal. Code Regs. Title 5 § 42720 et seq.
Employees includes but is not limited to suspension, demotion, and termination of employment. Discipline for Students includes but is not limited to probation, suspension, and expulsion. Suspension of one academic year or more, expulsion, withdrawal in lieu of suspension or expulsion, and withdrawal with pending misconduct investigation or disciplinary proceeding shall be entered on the Student's transcript permanently without exception; this requirement cannot be waived in connection with any settlement agreement. See the definition of Remedies below.

O. **Discrimination** means Adverse Action taken against a Student by the CSU, a CSU employee, or another Student because of a Protected Status.

P. **Domestic Violence** is abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the Respondent has a child; someone with whom the Respondent has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. 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 spouses; (5) the continuity of the relationship; and, (6) the length of the relationship. For purposes of this definition, “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 self, or another. Abuse does not include non-physical, emotional distress or injury.

Q. **Employee** means a person legally holding a position in the CSU. This term includes full-time, part-time, permanent, tenured, probationary, temporary, intermittent, casual, and per-diem positions. This term does not include auxiliary or foundation Employees or other Third Parties.

R. **Gender** means sex, and includes Gender Identity, Gender Expression, and transgender. It also includes sex stereotyping.

Sex includes, but is not limited to pregnancy, childbirth, breastfeeding or any related medical conditions.

Gender Identity means a person’s identification as male, female, a gender different from the person’s sex at birth or transgender.

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12 See Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.
15 See Cal. Gov. Code §12926@; 34 C.F.R. 106.4
Gender Expression means a person’s gender-related appearance or behavior whether or not stereotypically associated with the person’s assigned sex at birth.

Sex stereotype means an assumption about a person’s appearance or behavior or about an individual’s ability or inability to perform certain kinds of work based on a myth, social expectation, or generalization about the individual’s sex.

Transgender is a general term that refers to a person whose gender identity differs from the person’s sex at birth. A transgender person may or may not have a gender expression that is different from the social expectation of the sex assigned at birth. A transgender person may or may not identify as transsexual.

Gender is a Protected Status.

S. Genetic Information means\(^{16}\):

- The Student’s genetic tests.
- The genetic tests of the Student’s family members.
- The manifestation of a disease or disorder in the Student’s family members.
- Any request for, or receipt of genetic services, or participation in clinical research that includes genetic services, by a Student or any Student’s family member.
- Genetic Information does not include information about any Student’s sex or age.

Genetic Information is a Protected Status.

T. Harassment means unwelcome conduct, based on the Complainant’s Protected Status, that is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting her/his ability to participate in or benefit from the services, activities or opportunities offered by the University.

U. Investigator means the person tasked by a Campus with investigating a Complaint. All Investigators shall receive annual training regarding such issues as the laws governing Discrimination, Harassment and Retaliation; Title IX and VAWA/Campus SaVE Act; as well as other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or Sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking; Complainant, Respondent, Employee, and witness privacy rights; and the Family Educational Rights

\(^{16}\) See Cal. Gov. Code §12926(g).
and Privacy Act of 1974 (FERPA). For matters involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence or Stalking, the Investigator shall also receive annual training on how to conduct an investigation process that protects the safety of the Complainant(s) and the University community. (See also Executive Order 1095 regarding required training for Sexual Harassment and Sexual Misconduct investigations.)

If delegated, the DHR Administrator or the Title IX Coordinator (for Complaints alleging Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking) shall monitor, supervise, and oversee the investigation to ensure that it is conducted in accordance with the standards, procedures and timelines set forth in this policy.

The Investigator shall not be within the administrative control or authority of any Respondent CSU Employee. The Investigator may be the DHR Administrator, the Title IX Coordinator, or their designee, provided that any designee shall be an MPP Employee or an external consultant.

V. **Marital Status** means an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state. Marital Status is a Protected Status.

W. **Medical Condition** means either of the following:

1. Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer; or

2. Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

   a. Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder; or

   b. Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

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17 See 2 Cal. Code Regs §11053.
Medical Condition is a Protected Status.

X. **Nationality** includes citizenship, country of origin, and national origin. It also includes language use restrictions and holding or presenting a driver’s license issued under section 12801.9 of the Vehicle Code.

Nationality is a Protected Status.19

Y. **Parties** to a Complaint are the Complainant(s) and the Respondent(s).

Z. **Preponderance of the Evidence** means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in an investigation conducted pursuant to this Executive Order.

AA. **Protected Status** includes Age, Disability (physical or mental), Gender (or sex), Genetic Information, Gender Identity (including transgender), Gender Expression, Marital Status, Medical Condition, Nationality, Race or Ethnicity, Religion or Religious Creed, Sexual Orientation, and Veteran or Military Status.

BB. **Race or Ethnicity** includes ancestry, color, ethnic group identification, and ethnic background.

Race or Ethnicity is a Protected Status.20

CC. **Religion** or Religious Creed and includes all aspects of religious belief, observance, and practice, including religious dress and grooming practices, and includes agnosticism and atheism. Religious dress and grooming practices, such as wearing religious clothing, head or face covering, jewelry, and artifacts, are part of a Complainant’s religious observance or belief.21

Religion or Religious Creed is a Protected Status.

DD. **Remedies** mean actions taken to correct allegations and/or reported violations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking as set forth in this Executive Order. Remedies can include Discipline or other corrective action.

**Interim Remedies** shall be offered prior to the conclusion of an investigation in order to immediately stop any wrong-doing and/or reduce or eliminate any negative impact, when

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appropriate. Persons reporting that they have been the victim of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence or Stalking must be provided reasonable and available Interim Remedies, if requested, regardless of whether the person chooses to report the conduct to Campus police or local law enforcement, and regardless of whether an investigation is conducted under this Executive Order. Examples may include offering the option of psychological counseling services, changes to academic or living situations, completing a course and/or courses online (if otherwise appropriate), academic tutoring, arranging for the re-taking of a class or withdrawal from a class without penalty, and/or any measure as appropriate to stop further alleged harm until an investigation is concluded or a resolution is reached. The Title IX Coordinator shall assist and provide the Complainant with reasonable Remedies as requested throughout the reporting, investigation, appeal, and disciplinary processes, and thereafter.

EE. **Respondent** means the CSU, a CSU Employee, another Student, or a Third Party who is alleged to have violated this Executive Order.

FF. **Retaliation** means Adverse Action taken against a Student because the Student has or is believed to have:

1. Exercised rights under this Executive Order;
2. Reported or opposed conduct which was reasonably and in good faith believed to be in violation of this Executive Order;
3. Assisted or participated in a policy-related investigation/proceeding regardless of whether the Complaint was substantiated; or,
4. Assisted someone in reporting or opposing a violation of this Executive Order, or assisted someone in reporting or opposing Retaliation under this Executive Order.

Retaliation may occur whether or not there is a power or authority differential between the individuals involved.

GG. **Sexual Assault Victim’s Advocate** refers to Employees or third party professionals appointed to support Complainants reporting Sexual Misconduct. They must be certified and have received specialized training to provide advice and assistance, including but not limited to the provision of information about available options in the Complaint, law enforcement, legal, and medical processes, and with emotional and decision making support. Sexual Assault Victim’s Advocates may serve as the Complainant’s Advisor and assist in seeking services. They are committed to maintain the highest possible level of confidentiality permissible under state and federal law in their communications with the persons they assist. Sexual Assault Victim’s Advocates are appointed based on

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experience and demonstrated ability to effectively provide services to victims/survivors/Complainants. See Executive Order 1095 for more detailed information.

**HH. Sexual Harassment**, a form of Sex Discrimination, is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes but is not limited to sexual advances, requests for sexual favors, and any other conduct of a sexual nature where:

1. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a Complainant’s academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the University; or

2. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting his or her ability to participate in or benefit from the services, activities or opportunities offered by the University; or

3. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as creating an intimidating, hostile or offensive environment.

Sexual Harassment could include being forced to engage in unwanted sexual contact as a condition of membership in a student organization; being subjected to video exploitation or a campaign of sexually explicit graffiti; or frequently being exposed to unwanted images of a sexual nature in a classroom that are unrelated to the coursework.

Sexual Harassment also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on Gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

This policy covers unwelcome conduct of a sexual nature. While romantic, sexual, intimate, personal or social relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Sexual Harassment or Sexual Misconduct, including Dating or Domestic Violence, or Stalking, subject to this policy.

Claiming that the conduct was not motivated by sexual desire is not a defense to a complaint of harassment based on Gender.

**II. Sexual Misconduct**: All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining
Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.

Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape, and Dating Violence. When based on Gender, Domestic Violence or Stalking also constitute Sexual Misconduct. Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person’s intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person’s incapacitation (including voluntary intoxication) to engage in sexual activity. Men as well as women can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when the Complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

1. **Sexual Assault** is a form of Sexual Misconduct and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person’s Gender or sex.\(^{23}\)

2. **Sexual Battery** is a form of Sexual Misconduct and is any willful and unlawful use of force or violence upon the person of another because of that person’s Gender or sex as well as touching an intimate part of another person against that person’s will and for the purpose of sexual arousal, gratification, or abuse.\(^{24}\)

3. **Rape** is a form of Sexual Misconduct and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical Disability renders a person incapable of giving consent. The Respondent’s relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of Affirmative Consent above.)\(^{25}\)

4. **Acquaintance Rape** is a form of Sexual Misconduct committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. (See above for definition of Rape.)

JJ. **Sexual Orientation** means one’s preference in sexual partners and includes heterosexuality, homosexuality or bisexuality.²⁶

Sexual Orientation is a Protected Status

KK. **Stalking** means engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for the safety of self or others’ safety or to suffer Substantial Emotional Distress.²⁷ For purposes of this definition:

1. **Course of Conduct** means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through Third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property;

2. **Reasonable Person** means a reasonable person under similar circumstances and with the same Protected Status(es) as the Complainant;

3. **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

LL. **Student** means an applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting a degree, a CSU student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including investigation) is pending.

MM. **Third Party** means a person other than an Employee or a Student. Examples include employees of auxiliary organizations²⁸, unpaid interns, volunteers, independent contractors, vendors, and their employees, and visitors.

NN. **Title IX** means Title IX of the Education Amendments of 1972.

OO. **Title IX Coordinator** means the Campus MPP Employee appointed by the Campus president to coordinate compliance with Title IX; VAWA/Campus SaVE Act; and other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence and Stalking. (See Executive Order 1095.)

PP. **VAWA** means the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Crimes Statistics Act, commonly known

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²⁸ See 5 Cal. Code Regs. § 42406.
as the Clery Act (20 U.S.C. 1092(f)), under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act).

QQ. **Veteran or Military Status** means service in the uniformed services.

Veteran or Military Service may be a Protected Status.

RR. **Working Days** are defined as Monday through Friday, excluding all official holidays or Campus closures at the Campus where the Complaint originated or at the CO where an Appeal is reviewed.

Attachments:  
CSU Student Complaint Form  
CSU Student Complaint Procedure Timeline

Dated: October 5, 2016

**Revision History:**

As a result of the issuance of this Executive Order, the following documents are superseded as of the effective date of this Executive Order and are no longer applicable:


- Executive Order 1097 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students*), dated June 3, 2014

- Executive Order 1074 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students*), dated April 6, 2012

- Executive Order 1045 (*Systemwide Policy Prohibiting Discrimination, Harassment, and Retaliation Against Students and Applicants for Admission AND Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students and Applicants for Admission Against the CSU and/or CSU Employees*), dated March 1, 2010
Executive Order 1097 provides students a systemwide procedure to file complaints alleging violations of the California State University (CSU) systemwide policy prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking against students by the CSU, Employees, other Students, or Third Parties. Please fill in all of the information requested below as completely as possible and attach additional pages to this form, if necessary.

CSU Campus ____________________________ Work Phone ____________________________

Last Name ____________________________ First Name _______ MI

Mailing Address ____________________________

City ____________________________ State _______ Zip Code ____________________________

E-mail ____________________________

Cell Phone ____________________________ Home Phone ____________________________

Best time to call: [ ] AM/PM

Currently a CSU Student? [ ] Yes [ ] No Last CSU Registration Date ____________

Currently a CSU Applicant? [ ] Yes [ ] No Last CSU Application Date ____________

Was Early Resolution sought? [ ] Yes [ ] No If yes, with whom: ____________________________ Date ____________

Indicate the type(s) of complaint being filed: [ ] Discrimination [ ] Harassment [ ] Retaliation

[ ] Sexual Misconduct [ ] Dating Violence [ ] Domestic Violence [ ] Stalking

If you are filing a Discrimination or Harassment complaint, indicate the protected status(es) that was/were the basis(es) of the alleged Discrimination or Harassment. (Please select all that apply):

[ ] Race/Color [ ] Religion [ ] Sexual Orientation [ ] Medical Condition

[ ] National Origin/Ancestry [ ] Gender/Sex [ ] Disability [ ] Genetic Information

[ ] Marital Status [ ] Gender Identity/Expression [ ] Military/Veteran Status [ ] Age

If you are filing a Retaliation complaint, indicate the activity(ies) you engaged in that was/were the basis(es) for the alleged Retaliation.

______________________________________________________________________________

Page 1 of 3
1. Identify the Respondent(s) against whom your complaint is made. For each Respondent, provide the identifying information requested below. Attach additional pages to this form if necessary.

<table>
<thead>
<tr>
<th>Respondent(s) name:</th>
<th>Relationship/Association with the campus:</th>
<th>Relationship/Association to you:</th>
</tr>
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</table>

2. Describe the incident(s) or events(s), date(s), time(s), and location(s) giving rise to your complaint. Attach additional pages to this form, if necessary.

3. Describe the specific harm you have suffered resulting from the incident(s). Attach additional pages to this form, if necessary.

4. What did you or others do to try to resolve the complaint? What was the outcome?
5. Identify individuals who may have observed or witnessed the incident(s) that you described.

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>MI</th>
<th>Telephone</th>
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<th>Position/Job Title</th>
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<tr>
<th>E-mail</th>
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<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
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<th>Telephone</th>
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<th>Position/Job Title</th>
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<tr>
<th>E-mail</th>
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</table>

6. Do you have any documents or electronic communications (including text messages or email) that support your complaint?

☐ Yes  ☐ No  *(Please list and attach a copy.)*

7. Do you have any physical evidence (such as photographs, videos, blood tests or rape kits) that support your complaint? *(Please describe)*

8. Describe the outcome(s) you expect from filing your complaint. Be as specific as possible.

You may elect to have an Advisor present at meeting(s) and/or interview(s) which may be a Sexual Assault Victim’s Advocate. If you indicate you will have an Advisor, you are authorizing that individual to accompany you to any meeting(s) and/or interview(s) regarding this complaint. The role of the Advisor is limited to observing and consulting with you.

9. If you will be accompanied by an Advisor, provide the name and telephone number.

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>MI</th>
<th>Telephone</th>
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</thead>
<tbody>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Cell Phone</th>
</tr>
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<td></td>
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</table>

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**CERTIFICATION**

I certify that the information given in this complaint is true and correct to the best of my knowledge or belief.

Print Name of Student

Signature of Student

Date

---

**For University Use Only:**

Date Complaint Received

Signature
Pursuant to Executive Order (EO) 1097, a “Student”, defined as an applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting a degree, a CSU Student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including investigation) is pending, may file a Complaint related to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking.

- Immediately following an act/action/incident that falls under Executive Order 1097 or as soon as possible thereafter, Students who believe they are or may have been victims of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking, may initiate the Article III. Campus Procedure for Responding to Complaints to receive information about the procedures that exist for resolving such matters. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

For the purpose of this Executive Order, Working Days are defined as Monday through Friday, excluding all official holidays or Campus closures at the Campus where the Complaint originated or at the Chancellor’s Office (CO) where the Complaint Appeal is reviewed.

- Within ten (10) Working Days after receipt of a Complaint, an intake interview shall be conducted with the Complainant.

- Within ten (10) Working Days after reviewing all written Complaints and the information received during the intake interview, the Discrimination/Harassment/Retaliation (DHR) Administrator or Title IX Coordinator will notify the Complainant that the Complaint has been accepted for investigation and the timeline for completion of the investigation. If the DHR Administrator or Title IX Coordinator determines the Complainant has failed to state a Complaint within the scope of this Executive Order, s/he will provide the Complainant with written notice of this determination within ten (10) Working Days. The DHR Administrator or Title IX Coordinator will also inform the Complainant that if additional information is provided, the Complaint will be reviewed again.

- Within sixty (60) Working Days after the intake interview, the Investigator shall complete the investigation, write and submit an investigation report to the campus designated DHR Administrator or Title IX Coordinator. If this timeline is extended pursuant to Article V. E, it shall not be extended for a period longer than an additional thirty (30) Working Days from the original due date.

- Within ten (10) Working Days of receiving the investigation report, the DHR Administrator or Title IX Coordinator shall review the investigation report and notify the Parties in writing of the investigation outcome. If the DHR Administrator or Title IX Coordinator performed the investigation, s/he shall notify the Parties in writing of the investigation outcome within ten (10) Working Days of completing the investigation report. The Notice shall indicate whether or not this Executive Order was violated and the Complainant’s and Respondent’s right to file an Appeal under this policy.
CSU Student Complaint Procedure Timeline

- **Within ten (10) Working Days after the date of the Notice of Investigation Outcome**, the Student may file a written Appeal with the CO.

- **Within thirty (30) Working Days after receipt of the written Appeal**, the CO designee shall respond to the appealing party, unless the timeline has been extended pursuant to Article IV. G. or Article V. E. A separate notification shall be provided to the non-appealing party, indicating whether or not the allegations were substantiated on Appeal by a Preponderance of the Evidence.

- **Closure.** The CO Appeal Response is final and concludes the Complaint and Appeal process under this Executive Order.

**Pursuant to EO 1097 Article V. E, the timelines noted above may be extended as follows:**

The timeline for the procedures contained within this Executive Order may be extended for any reason deemed to be legitimate by the Campus investigator/CO Appeal reviewer or by mutual agreement of the Parties. The timelines stated within this Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional thirty (30) Working Days for a Campus investigation or an additional thirty (30) Working Days for a reopened Campus investigation under Article IV. The Complainant and Respondent shall receive written notification of any period of extension.
Supervisor Accident Review.pdf
# HATE CRIME CHECKLIST

<table>
<thead>
<tr>
<th>Victim Type:</th>
<th>Target of Crime (Check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Individual</td>
<td>☐ Person</td>
</tr>
<tr>
<td>☐ School, business or organization</td>
<td>☐ Other</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nature of Crime (Check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Bodily injury</td>
</tr>
<tr>
<td>☐ Property damage</td>
</tr>
<tr>
<td>Property damage - estimated value</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Crime (Check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Person</td>
</tr>
<tr>
<td>☐ Other</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Actual or Perceived Bias – Victim’s Statement:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Actual bias [Victim actually has the indicated characteristic(s)].</td>
</tr>
<tr>
<td>☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].</td>
</tr>
<tr>
<td>If perceived, explain the circumstances in narrative portion of Report.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Reason for Bias:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you feel you were targeted based on one of these characteristics?</td>
</tr>
<tr>
<td>☐ Yes</td>
</tr>
<tr>
<td>Do you know what motivated the suspect to commit this crime?</td>
</tr>
<tr>
<td>☐ Yes</td>
</tr>
<tr>
<td>Do you feel you were targeted because you associated yourself with an individual or a group?</td>
</tr>
<tr>
<td>☐ Yes</td>
</tr>
<tr>
<td>Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?</td>
</tr>
<tr>
<td>☐ Yes</td>
</tr>
<tr>
<td>Are there indicators the suspect is affiliated with a criminal street gang?</td>
</tr>
<tr>
<td>☐ Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bias Indicators (Check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Hate speech</td>
</tr>
<tr>
<td>☐ Written/electronic communication</td>
</tr>
</tbody>
</table>

Describe with exact detail in narrative portion of Report.

<table>
<thead>
<tr>
<th>Relationship Between Suspect &amp; Victim:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suspect known to victim?</td>
</tr>
<tr>
<td>Nature of relationship:</td>
</tr>
<tr>
<td>Length of relationship:</td>
</tr>
<tr>
<td>If Yes, describe in narrative portion of Report</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Prior reported incidents with suspect? Total #</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Yes</td>
</tr>
<tr>
<td>Prior unreported incidents with suspect? Total #</td>
</tr>
<tr>
<td>Restraining orders?</td>
</tr>
<tr>
<td>If Yes, describe in narrative portion of Report</td>
</tr>
<tr>
<td>Type of order:</td>
</tr>
</tbody>
</table>

| 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 |

POST 05/19 (Based on LAPD’s Hate Crime Supplemental Report, used with permission)
## HATE CRIME CHECKLIST

### EVIDENCE

<table>
<thead>
<tr>
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<tr>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>D#</td>
<td>Yes</td>
<td>Video, Audio</td>
</tr>
</tbody>
</table>

Taken by: ___________________________  Serial #: ___________________________

### OBSERVATIONS

#### VICTIM
- [ ] Tattoos
- [ ] Shaking
- [ ] Unresponsive
- [ ] Crying
- [ ] Scared
- [ ] Angry
- [ ] Fearful
- [ ] Calm
- [ ] Agitated
- [ ] Nervous
- [ ] Threatening
- [ ] Apologetic
- [ ] Other observations: ___________________________

#### SUSPECT
- [ ] Tattoos
- [ ] Shaking
- [ ] Unresponsive
- [ ] Crying
- [ ] Scared
- [ ] Angry
- [ ] Fearful
- [ ] Calm
- [ ] Agitated
- [ ] Nervous
- [ ] Threatening
- [ ] Apologetic
- [ ] 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

### MEDICAL

<table>
<thead>
<tr>
<th>Victim</th>
<th>Suspect</th>
<th>Paramedics at scene?</th>
<th>Resources offered at scene?</th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ]</td>
<td>[ ]</td>
<td>[ ] Yes [ ] No Unit #</td>
<td>[ ] Yes [ ] No Type:</td>
</tr>
</tbody>
</table>

Declined medical treatment
Will seek own medical treatment
Received medical treatment
Authorization to Release Medical Information, Form 05.03.00, signed? [ ] Yes [ ] No

### RESOURCES

- [ ] Yes [ ] No
  - Type:

### OFFICERS

<table>
<thead>
<tr>
<th>Officer (Name/Rank)</th>
<th>Date</th>
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<table>
<thead>
<tr>
<th>Officer (Name/Rank)</th>
<th>Date</th>
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<table>
<thead>
<tr>
<th>Supervisor Approving (Name/Rank)</th>
<th>Date</th>
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</table>

POST 05/19
EO-1096.pdf
MEMORANDUM

TO: CSU Presidents

FROM: Timothy P. White
Chancellor

SUBJECT: Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties

Executive Order 1096 Revised October 5, 2016

Attached is a copy of Executive Order 1096 Revised October 5, 2016, which supersedes Executive Order 1096 Revised June 23, 2015. This policy and procedure applies systemwide, in conjunction with Executive Order 1095 Revised June 23, 2015 (and any superseding related executive orders).

These revisions incorporate amendments to the Fair Employment and Housing Act (FEHA) Regulations. They are technical in nature, expand the use of gender neutral language, or clarify existing policy and procedure. Complaints filed on or after the effective date of this executive order shall be processed in accordance with the procedures outlined herein, utilizing the policy and definitions set forth in the executive order in place at the time of the alleged misconduct.

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

If you have questions regarding this executive order, please call systemwide Equal Opportunity and Compliance at (562) 951-4400.
Attachments

c: CSU Office of the Chancellor Leadership
   Provosts
   Vice Presidents, Administration and Finance
   Vice Presidents, Student Affairs
   DHR Administrators
   Human Resources Officers
   Title IX Coordinators
Article I. Policy Statement

The California State University (CSU) is committed to maintaining an inclusive community that values diversity and fosters tolerance and mutual respect. We embrace and encourage our community differences in Age, Disability (physical and mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, and Veteran or Military Status, and other characteristics that make our community unique. All individuals have the right to participate fully in CSU programs and activities free from Discrimination, Harassment, and Retaliation. The CSU prohibits Harassment of any kind, including Sexual Harassment, as well as Sexual Misconduct, Dating and Domestic Violence, and Stalking. Such misconduct violates University policy and may also violate state or federal law.

All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific sexual activity is Sexual Misconduct and constitutes a violation of this policy, whether or not the sexual activity violates any civil or criminal law.

This policy is established in compliance with the California Equity in Higher Education Act, Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Security and Campus Crimes Statistics Act, commonly known as the Clery Act) (VAWA) under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act), Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Federal Consent to Disclose Educational Records Act (FERPA), and Section 214 of the Violence Against Women Act of 2000.

1 Key capitalized terms are defined at Article VI of this Executive Order. Please see that Article for the full definitions. Terms contained within this policy and procedure are intended to be gender neutral.

A. **Prohibited Conduct.** The CSU prohibits:

1. Discrimination, including Harassment, because of any Protected Status: i.e., Age, Disability (physical or mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, sex stereotype, and Veteran or Military Status;

2. Retaliation for exercising rights under this policy, opposing Discrimination or Harassment because of a Protected Status, or for participating in any manner in any related investigation or proceeding;

3. Dating and Domestic Violence, and Stalking;

4. Sexual Misconduct of any kind, which includes sexual activity engaged in without Affirmative Consent; and,

5. Employees from entering into a consensual relationship with any Student or Employee over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. See Article I. F.

The University shall respond promptly and effectively to all complaints of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and shall take appropriate action to prevent, correct, and discipline conduct that violates this policy. This Executive Order is intended to protect the rights and privacy of both the Complainant and the Respondent, as well as other involved individuals.

Employees and Students who are found to have violated this policy shall be subject to discipline commensurate with the violation. If Employee discipline is warranted, it shall be administered in a manner consistent with applicable collective bargaining agreements, CSU policies, and legal requirements. Student discipline shall be administered in accordance with 5 Cal. Code Regs. § 41301 and Executive Order 1098, or any superseding executive order, if applicable.

B. **Discrimination.** The CSU strives to be free of all forms of Discrimination, including Harassment, because of a Protected Status. It is CSU policy that no person shall be excluded from participation in, or be denied the benefits of, any CSU program or activity because of any Protected Status.

C. **Retaliation.** Retaliation against a person for exercising any rights under this policy or for opposing Discrimination or Harassment because of a Protected Status, Sexual
Misconduct, Dating or Domestic Violence, or Stalking, or for participating in any manner in any policy-related investigation or proceeding is prohibited.

No victim or witness in related investigations or proceedings will be subject to disciplinary sanctions by the University for related violations of conduct policies occurring at or near the time of the incident unless the University determines the violation was egregious, including but not limited to plagiarism, cheating, academic dishonesty or conduct that places the health and safety of any other person at risk.

D. Dating and Domestic Violence, and Stalking. The CSU prohibits Dating and Domestic Violence, and Stalking. Dating and Domestic Violence, and Stalking are often based on Gender. CSU prohibits all such misconduct whether or not it is based on Gender.

E. Sexual Misconduct. All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity constitutes Sexual Misconduct and is a violation of this policy, whether or not the conduct violates any civil or criminal law.

Sexual Misconduct is a form of Sexual Harassment and may create a sexually hostile environment that affects access to or participation in CSU programs and activities. CSU prohibits all such conduct whether or not it also amounts to Sexual Harassment.

Sexual activity includes but is not limited to kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex.

Affirmative Consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be voluntary, and given without coercion, force, threats or intimidation.

The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent. A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent.

Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.
Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious or incapacitated due to the influence of drugs, alcohol or medication so that the person could not understand the fact, nature or extent of the sexual activity. A person is incapacitated if the person lacks the physical and/or mental ability to make informed, rational decisions.

Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person’s decision-making ability, awareness of consequences, and ability to make informed judgments. A person’s own intoxication or incapacitation from drugs or alcohol does not diminish that person’s responsibility to obtain Affirmative Consent before engaging in sexual activity.

A person with a medical or mental disability may also lack the capacity to give consent.

Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.

It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:

- The person was asleep or unconscious;
- The person was incapacitated due to the influence of drugs, alcohol or medication, so that the person could not understand the fact, nature or extent of the sexual activity;
- The person was unable to communicate due to a mental or physical condition.

It shall not be a valid excuse that the Respondent believed that the person consented to the sexual activity under either of the following circumstances:

- The Respondent’s belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent;
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented.

**F. Consensual Relationships.** Consensual relationship means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship. While sexual and/or romantic relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking subject to this policy.
A CSU Employee shall not enter into a consensual relationship with a Student or Employee over whom that employee exercises or influences direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. In the event such a relationship already exists, each Campus shall develop a procedure to reassign such authority to avoid violations of this policy.

This prohibition does not limit the right of an Employee to make a recommendation on personnel matters concerning a family or household member where the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or MPP/confidential personnel plan.

G. **Reasonable Accommodations.** The CSU will provide reasonable accommodations to qualified individuals with a Disability. Reasonable accommodations will be determined by the Campus following an interactive process with those involved to identify the nature and extent of the restrictions and the appropriate accommodation.

H. **Duty to Report.** Except as provided below, any Employee who knows or has reason to know of allegations or acts that violate this policy shall promptly inform the DHR Administrator or Title IX Coordinator. These Employees are required to disclose all information, including the names of the Parties, **even where the person has requested anonymity.** The DHR Administrator or Title IX Coordinator will determine whether such confidentiality is appropriate given the circumstances of each such incident.

Employees Who Do Not Have A Duty to Report:

1. The following Employees are **not** required to report any information about an incident of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking to the DHR Administrator or Title IX Coordinator:
   
a. Physicians; psychotherapists; professional licensed counselors; licensed clinical social workers, and clergy who work on or off Campus, acting solely in those roles or capacities as part of their employment, in the provision of medical or mental health treatment or counseling (**and those who act under their supervision, including all individuals who work or volunteer in these centers and offices**); and

   b. Sexual assault and domestic violence counselors and advocates who work or volunteer on or off Campus in sexual assault centers, victim advocacy offices, women’s centers, gender equity centers, and health centers and who are acting solely in that role (**including those who act in that role under their supervision, along with non-professional counselors or advocates who work or volunteer in sexual assault centers, victim advocacy offices, women’s centers or health centers**).

   c. A CSU employee/union representative is not required to report a possible violation of this Executive Order if the information is provided to the union.
representative, acting in that role, in a confidential setting by a union member seeking advice about a possible violation or representation in a matter within the scope of representation. However, CSU employee/union representatives are **strongly encouraged** to report the information to the DHR Administrator or Title IX Coordinator.

2. University police are **not** required to report any **personally-identifiable information** about a victim of certain sex offenses, \(^2\) **if the victim requests confidentiality of identity**, but must report all known facts of the incident, including the identity of the perpetrator (if known), to the Title IX Coordinator.

**EXCEPTIONS:** Under California law, any health practitioner employed in a health facility, clinic, physician’s office, or local or state public health department or clinic is required to make a report to local law enforcement if medical services are provided for a **physical condition** to a patient/victim who the practitioner knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm; or, (2) any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive conduct. \(^3\) This exception does **not** apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to victims, if applicable.

Additionally, under California law, all physicians, psychotherapists, professional counselors, clergy, and sexual assault and domestic violence counselors and advocates are mandatory child abuse and neglect reporters, and are required to report incidents involving victims under 18 years of age to local law enforcement. \(^4\) These professionals will explain this limited exception to victims, if applicable.

Finally, some or all of these professionals may also have reporting obligations under California law to: (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger; \(^5\) or, (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the Sexual Misconduct, Dating or Domestic Violence, or Stalking incident. \(^6\) If applicable, these professionals will explain this limited exception to victims.

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\(^2\) See Cal. Penal Code § 293; Cal. Gov. Code § 6254(f)(2). “The name of a victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor.”

\(^3\) Assaultive or abusive conduct is defined to include a list of 24 criminal offenses, including Sexual Battery, incest, Rape, spousal Rape, abuse of a spouse or cohabitant, and any attempt to commit these crimes. See Cal. Penal Code § 11160.

\(^4\) See Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.


Article II. Policy Implementation, Training and Communication

Each Campus president shall designate a DHR Administrator and Title IX Coordinator who shall be responsible for the implementation of and compliance with this policy. The DHR Administrator is responsible for the implementation of and compliance with this policy with respect to all Discrimination, Harassment and Retaliation matters except those involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The DHR Administrator is responsible for publicizing this Executive Order, developing Campus training policies consistent with this Executive Order, conducting training, and establishing an administrative structure consistent with this Executive Order that facilitates the prevention and elimination of Discrimination, Harassment, and Retaliation. The Title IX Coordinator is responsible for the implementation of, and compliance with this policy with respect to Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. The Title IX Coordinator is responsible for publicizing this Executive Order, developing Campus training policies consistent with this Executive Order, conducting training, and establishing an administrative structure consistent with this Executive Order that facilitates the prevention and elimination of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking. Each Campus shall make the contact information for the DHR Administrator and Title IX Coordinator available to all members of the Campus community as well as Third Parties. The contact information shall be updated as necessary.

To prevent Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and to encourage reporting of such conduct, training shall be provided by each Campus to all Employees, including Faculty unit employees and student assistants. Such training shall be mandatory for all employees within twelve months of the effective date of this Executive Order, and on an annual basis thereafter. New employees shall receive training within six months of their initial hiring. Such training shall explain, but not be limited to: what constitutes Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking under applicable law; the rights and responsibilities of each Employee relating to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking including the duty to report and exceptions; the protection against Retaliation for Employees who report Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking; the procedure provided in this Executive Order for filing, investigating and resolving a Complaint; and the option and method for filing Complaints with external government agencies such as the Department of Fair Employment and Housing (DFEH) and the Equal Employment Opportunity Commission (EEOC).

Under Cal. Govt. Code § 12950.1, each Campus shall provide supervisory Employees at least two hours of interactive Sexual Harassment training within six months of the Employee’s assignment to a supervisory position and every two years thereafter. Each Campus shall maintain documentation of the delivery and completion of these trainings. For detailed guidance regarding the definition of “supervisor” and the implementation of this training, Campuses shall consult Coded Memoranda HR 2005-35 and other applicable policies.
The requirements for training to promote awareness of CSU policies against Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking are set forth in Executive Order 1095.

This Executive Order shall be made readily available and distributed on an annual basis to all Students and Employees, utilizing multiple media for communication, including email, Student orientations and catalogs, new Employee orientations, Campus websites and publications, and the webpages for the offices of Equity and Diversity, Student Affairs, Student Judicial Affairs, Disabled Student Services, Auxiliary Service Organizations, Academic Affairs, Extended Education, Athletics, Residential Life, and Human Resources.

Each Campus shall also distribute a copy of the Department of Fair Employment and Housing information sheet on sexual harassment (Form DFEH-185, or any superseding document) to all Employees utilizing multiple media for communication, including email and webpages. In addition, each Campus shall post the DFEH poster on employment discrimination (Form DFEH-162, or any superseding document) in prominent and accessible locations on Campus where other employment notices regarding rules, regulations and procedures are posted.

Article III. Campus Procedure for Responding to Complaints

This procedure provides individuals a process to address alleged violations of this policy by the CSU, a CSU Employee, a Student, or a Third Party. Whenever a Campus determines that the allegation(s) are outside the scope of this policy, the Campus shall promptly notify the individual in writing. All Complaints and related investigations against Respondents who are sworn University public safety officers shall be governed by this policy, the applicable collective bargaining agreement, and by the Public Safety Officers Procedural Bill of Rights Act (POBR). The campus DHR Administrator or Title IX Coordinator shall work with the campus Chief of Police, or designee, to investigate Complaints against sworn public safety officers. Consultation with the Office of General Counsel is recommended.

A. Who May Use This Procedure: The individuals listed below may use the procedure in this Executive Order to address Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking.

1. Employees. Non-represented Employees and Employees in bargaining units whose collective bargaining agreements have incorporated this Executive Order may use the procedure described in this Executive Order to address Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking by the CSU, another Employee, a Student, or a Third Party.

2. Employees who are covered by a grievance procedure in a collective bargaining agreement. Employees who are covered by a collective bargaining agreement that provides a grievance procedure for raising allegations of Discrimination, Harassment,
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Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking shall use the grievance procedure specified in their collective bargaining agreement.

3. **Applicants for employment.** Applicants for employment may use the procedure outlined in this Executive Order to address Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking that occurred during their application process.

4. **Student employees.** At times, a person may be employed by the CSU and also be a Student. If an allegation of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking arose out of the person’s status as a Student and not their status as an Employee, the allegations shall be handled under Executive Order 1097 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide Procedure for Addressing Such Complaints by Students) or a superseding executive order. An allegation arising out of the person’s University work environment (while they are acting as an Employee) shall be handled under this Executive Order.

5. **Third Parties.** Allegations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking by Third Parties against the CSU, an Employee, or a Student shall be investigated and resolved in accordance with the procedure outlined in this Executive Order.

The University will respond to all Complaints and will take appropriate action to prevent, correct, and discipline conduct that violates this policy. To report alleged violations, an individual may submit a formal written Complaint to the DHR Administrator (Discrimination, Harassment, and Retaliation) or Title IX Coordinator (Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking). The date of receipt shall be deemed to be the Complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to individuals who are unable to submit a Complaint because of a qualified Disability.

Complaints should be brought forward as soon as possible after the conduct occurs. While there is no stated timeframe for making a Complaint, prompt reporting will better enable the Campus to respond to the Complaint, determine the relevant issues, and provide an appropriate Remedy and/or action. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the University’s ability to conduct an investigation or take appropriate remedial actions.

The Campus will respond to all reports of alleged violations of this policy, whether or not the report is submitted as a written Complaint. However, the response may be limited if information contained in the report is insufficient to verify violation(s) of this Executive Order.

B. **Campus Early Resolution Process.** Complainants who believe they have experienced Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence,
or Stalking under this policy may initiate the Early Resolution process prior to, or instead of, filing a Complaint. The purpose of the Early Resolution process is to explore whether the Complainant’s concern(s) can be resolved by the Campus without an investigation.

This Executive Order neither prevents nor requires the use of the Early Resolution process. Under no circumstance shall a Complainant be required to use the Early Resolution process to address prohibited behaviors. It is not appropriate for a Complainant to be required to “work out the problem” directly or mediate with the Respondent. Mediation cannot be used, even on a voluntary basis, to resolve Sexual Misconduct, Dating or Domestic Violence, or Stalking Complaints. In other matters, where voluntary mediation is requested, no meeting between the Complainant and the Respondent should occur without involvement by appropriate Campus administrators, including the DHR Administrator or Title IX Coordinator.

Where the allegations involve Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Complainant shall be advised to immediately file a Complaint under Article III, C.

1. **To initiate the Early Resolution Process.** The Complainant should contact the Campus DHR Administrator (Discrimination, Harassment, or Retaliation) or Title IX Coordinator (Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking) who shall promptly meet with the Complainant to discuss his or her concern(s) and possible resolutions as appropriate.

   Complainants shall be informed about the range of possible outcomes, including Interim Remedies or disciplinary actions that might be taken against the Respondent, and information about the procedures leading to such outcomes.

2. **Participation in the Early Resolution Process.** Participation is voluntary. It may include an inquiry into the facts, but does not include an investigation. Means for resolution shall be flexible. Resolution options include but are not limited to discussions with the Parties, a resolution facilitated by the DHR Administrator or Title IX Coordinator, separating the Parties, referring one or both of the Parties to counseling programs, an agreement between Campus and the Respondent regarding disciplinary action, conducting targeted preventive educational and training programs or providing Remedies to persons harmed by violations of this policy.

   The Campus shall attempt to resolve the Complainant’s concern(s) quickly and effectively. The DHR Administrator or Title IX Coordinator shall meet with the Complainant, the Respondent, and any other persons or witnesses they may determine to be necessary.

3. **Final Early Resolution.** If resolution is reached, a written record of the resolution shall be documented and maintained in accordance with applicable Campus recordkeeping policies. The matter shall be considered closed.
Where the Respondent is a Student, the DHR Administrator/Title IX Coordinator shall inform the Student Conduct Administrator of the outcome of the Early Resolution process, including any Interim Remedies afforded to the Complainant. Where the Respondent is an Employee, Human Resources or Academic Affairs shall be informed as appropriate.

If resolution is not reached, the Campus shall promptly notify the Complainant and, where applicable, the Respondent in writing that the Early Resolution process is terminated, and the termination effective date. The DHR Administrator/Title IX Coordinator shall also determine whether the matter is appropriate for investigation, and so notify the parties in writing. The Complainant shall be provided written notification of the right to file a Complaint pursuant to Article III, C.

4. **Confidentiality.** Other than consulting with their respective Advisors, both the Complainant and the Respondent shall keep the details of the Early Resolution process confidential until the process is concluded. If the matter is not resolved and an investigation is conducted, the Complainant and the Respondent shall maintain confidentiality until the conclusion of the Campus investigation and CO Appeal Review process, if any.

5. **Termination of Early Resolution Process.** The Complainant shall be notified that the Complainant or the Campus may at any time elect to terminate the Early Resolution process. In that event, the DHR Administrator/Title IX Coordinator shall promptly notify the Complainant and the Respondent in writing that the Early Resolution process has terminated, the effective date thereof, and inform the Complainant of the right to file a Complaint pursuant to Article III, C. The DHR Administrator/Title IX Coordinator shall also determine whether the matter is appropriate for investigation, and so notify the parties in writing.

C. **Campus Investigation Process.** Campuses will investigate Complaints of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking unless an Early Resolution is reached, whether or not a written Complaint is submitted. The DHR Administrator/Title IX Coordinator will determine whether to open an investigation after making a preliminary inquiry into the allegations. An investigation may not be warranted where the reported information is insufficient. These determinations will be documented in writing by the DHR Administrator/Title IX Coordinator, and maintained in accordance with systemwide records retention policies.

In cases where the Complainant does not want to pursue an investigation, the DHR Administrator/Title IX Coordinator should inform the Complainant that the ability to take corrective action may be limited. The Campus may determine that circumstances warrant initiating an investigation even if a Complaint has not been filed and independent of the intent or wishes of the Complainant. In cases involving Sexual Misconduct, Dating or Domestic Violence, or Stalking, when determining whether to go forward with an investigation, the Title IX Coordinator should consider the seriousness of the allegation(s), the age of the Complainant, whether there have been other Complaints against the
Respondent, and the risk to the Campus community if the Respondent’s alleged conduct remains unaddressed. These determinations will be documented in writing by the DHR Administrator/Title IX Coordinator, and maintained in accordance with systemwide records retention policies.

1. **Filing a Complaint.** Any Employee or Third Party may file a Complaint reporting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking under this policy subject to the following exceptions:

   a. Complaints of Student employees that arise out of their status as a Student. Such Complaints shall be governed by Executive Order 1097 or any superseding executive order.

   b. Complaints against a president shall be filed with the Chancellor’s Office (CO). However, Complaints against a president shall be processed by the Campus if the president’s role in the alleged incident was limited to a decision on a recommendation made by another administrator, and the president had no other substantial involvement in the matter.

   c. For Complaints against CO employees, the responsibilities identified in this Executive Order as those of the president are the responsibilities of the chancellor. Complaints that involve allegations against the chancellor or a member of the Board of Trustees shall be referred to the chair or vice chair of the Board and the CO Title IX Coordinator for processing and investigation.

2. **Complaint Requirements.** The Complainant may submit a written Complaint to the DHR Administrator or Title IX Coordinator. The date the Complaint is received in the appropriate office shall be deemed to be the Complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to Complainants who are unable to submit a written Complaint because of a qualified Disability.

   The Complainant may complete the attached “CSU Complaint Form” or, in the alternative, submit a written signed statement containing the following information:

   a. The Complainant’s full name, address (including email address) and telephone number(s);

   b. The name of the Respondent and job title, position or Student status, if known;

   c. The Protected Status that is the basis for any alleged Discrimination, Harassment, or Retaliation, the Respondent’s activity that is the basis for the alleged Retaliation, or whether Dating or Domestic Violence, or Stalking is alleged;
d. A clear, concise statement of the facts that constitute the allegations including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of any investigation;

e. A statement verifying that the information provided is true and accurate to the best of the Complainant’s knowledge;

f. The day, month and year of the Complainant’s most recent employment or the day, month and year in which the Complainant applied for employment with the University;

g. The full name, address and telephone number of the Complainant’s Advisor, if any;

h. The specific harm resulting from the allegations;

i. The specific remedy sought;

j. The Complainant’s signature; and,

k. The date on which the Complaint is submitted.

3. **Intake interview.** The DHR Administrator or Title IX Coordinator shall meet with the Complainant as soon as possible, but no later than 10 Working Days after the Complaint was received. The Complainant shall be available for and attend this meeting.

   a. The meeting shall serve as the initial intake interview with the Complainant and will:

      (i) Explain the investigation procedure and timelines and answer any questions about them;

      (ii) Inform the Complainant of rights and options under this Executive Order, including the right to have an Advisor throughout the process;

      (iii) Provide the opportunity for the Complainant to complete and sign a Complaint form, if not already done; and,

      (iv) Discuss reasonable Interim Remedies, as appropriate.

b. In cases alleging Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Title IX Coordinator shall also:

   (i) Inform the Complainant of the right to file a criminal complaint;
(ii) Offer to assist the Complainant with filing a criminal complaint;

(iii) Assure the Complainant that such filing will not significantly delay the Campus investigation;

Advise the Complainant of available resources such as the Campus police, Campus Sexual Assault Victim’s Advocate, student health service center or psychological counseling center; and

(iv) Provide written information, as directed under Executive Order 1095, to any Complainant who makes a report to the Campus of Sexual Misconduct, Dating or Domestic Violence, or Stalking.

c. Prior to or during the initial interview with the Respondent, the DHR Administrator or Title IX Coordinator shall:

(i) Explain the investigation procedure and timelines and answer any questions about them;

(ii) Inform the Respondent of rights and options under this Executive Order, including the right to have an Advisor throughout the process;

(iii) Provide the Respondent with a copy of this Executive Order;

(iv) Provide the Respondent with a description of the Complainant’s allegations against the Respondent;

(v) Provide the Respondent a full opportunity to respond to the allegations, including scheduling other meeting(s), accepting documentary evidence, and accepting Respondent’s list of potential witnesses; and,

(vi) Discuss any Interim Remedies, as appropriate.

4. **Advisor.** The Complainant and the Respondent may elect to be accompanied by an Advisor to any meeting or interview regarding the Complaint. (See definition in Article VI.)

5. **Confidentiality.** Information regarding the Complaint may be shared on a “need to know” basis with other Campus Employees, and with law enforcement (with the Complainant’s written consent), except for some limited exceptions. (See Executive Order 1095.) The DHR Administrator and/or Title IX Coordinator shall endeavor to honor any request for confidentiality; however, the DHR Administrator and/or Title IX Coordinator shall also weigh requests for confidentiality against the University’s duty to provide a safe and nondiscriminatory environment for all members of the Campus community. **Confidentiality, therefore, cannot be ensured.**
The Title IX Coordinator receives all Complainant requests for confidentiality involving cases of Sexual Misconduct, Dating or Domestic Violence, or Stalking, and determines if the request can be honored under the facts and circumstances of the particular case. (See Executive Order 1095.)

6. **Complaint Accepted for Investigation.** The DHR Administrator or Title IX Coordinator will review all written Complaints and the information received during the intake interview with the Complainant. If the DHR Administrator or Title IX Coordinator determines that the Complaint falls within the scope of this Executive Order, the Complainant will be notified within 10 Working Days that the Complaint has been accepted for investigation and the timeline for completion of the investigation.

If the DHR Administrator or Title IX Coordinator determines the Complainant has failed to state a Complaint within the scope of this Executive Order, the Complainant will be provided with written notice of this determination within 10 Working Days. The DHR Administrator or Title IX Coordinator will also inform the Complainant that if additional information is provided, the Complaint will be reviewed again. The DHR Administrator or Title IX Coordinator will maintain a record of the Complaint and the reasons the Complaint was deemed not within the scope of this Executive Order.

The DHR Administrator or Title IX Coordinator shall determine whether the Complaint should be processed through another Campus office or University procedure available to the Complainant. If appropriate, the DHR Administrator or Title IX Coordinator shall direct the Complainant to that procedure as soon as possible.

7. **Investigation Procedure.** The DHR Administrator or Title IX Coordinator shall promptly investigate the Complaint or assign this task to another Investigator on a case-by-case basis. If assigned to another Investigator, the DHR Administrator or Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation draft reports before they are final to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with this Executive Order.

The Complainant and the Respondent shall have equal opportunities to present relevant witnesses and evidence in connection with the investigation. Upon inquiry, the Complainant and Respondent shall be advised of the status of the investigation.

Before reaching a final conclusion or issuing a final investigation report, the Investigator shall have: a) advised the Parties or have offered to do so, verbally or in writing, of any evidence upon which the findings will be based; and, b) given the Parties an opportunity to respond to the evidence, including presenting further relevant evidence, information or arguments that could affect the outcome. The
Investigator will not reach a final conclusion or issue an investigation report until giving careful consideration to any such relevant evidence, information or arguments provided by the Parties. The Investigator retains discretion and authority to determine relevance.

The investigation shall be completed no later than 60 Working Days after the intake interview, unless the timeline has been extended pursuant to Article V. E. The timeline should not be extended for a period longer than an additional 30 Working Days from the original due date.

On occasion, a criminal investigation may be initiated by a law enforcement agency over the same allegations that are reported in a Complaint filed under this policy. A pending (Campus or local) police investigation is a separate investigation and it does not relieve a Campus of its responsibility to timely investigate Complaints under this policy. Thus, a Campus may not wait until the conclusion of a police investigation to commence its own investigation. Although it may be necessary to temporarily delay the investigation while the police are gathering evidence, once notified that the police have completed the fact gathering portion of their investigation, the Campus must promptly resume and complete its own investigation. In cases involving Sexual Misconduct, Dating or Domestic Violence, or Stalking, see the “Coordination with Criminal Investigations and Proceedings” section of Executive Order 1095.

8. Investigation Report. Within the investigation period stated above, the Investigator shall prepare an investigation report. The report shall include a summary of the allegations, the investigation process, the Preponderance of the Evidence standard, a detailed description of the evidence considered, and appropriate findings. Relevant exhibits and documents, if any, shall be attached to the written report. The report shall be promptly provided to the DHR Administrator or Title IX Coordinator, if applicable. The DHR Administrator or Title IX Coordinator shall review the investigation report to assure compliance with this Executive Order before proceeding further.

9. Notice of Investigation Outcome. Within 10 Working Days of issuance of the final investigation report, the DHR Administrator or Title IX Coordinator shall notify the Complainant and Respondent in writing of the outcome of the investigation. The Notice shall include a summary of the allegations, the investigative process, the Preponderance of the Evidence standard, the evidence considered, the findings of fact, a determination as to whether this Executive Order was violated, and if so, any Remedies to be afforded to the Complainant. The notice shall advise the Complainant and Respondent of their right to file an appeal under this Executive Order and to request a copy of the final investigation report with exhibits/attachments, if any, redacted as appropriate. The Notice shall be delivered to the Parties in a manner which guarantees delivery within 2 Working Days (email delivery is acceptable).

Where a Complaint is made against a Student and this Executive Order is found to have been violated, the DHR Administrator or Title IX Coordinator shall also notify
the Campus Student Conduct Administrator of the investigation outcome, and provide a copy of the investigation report. Where the Respondent is an Employee, Human Resources or Academic/Faculty Affairs shall be notified and provided a copy of the investigation report.

Article IV. Appeal Review - Office of the Chancellor (CO)

A. Filing an Appeal to the CO. Any Complainant or Respondent who is not satisfied with a Campus investigation outcome may file an appeal with the CO no later than 10 Working Days after the date of the Notice of Investigation Outcome.

B. Written Appeal. The appeal shall be in writing and shall be based only on one or more of the appeal issues listed below:

1. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard;

2. Prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with this Executive Order; or

3. New evidence not available at the time of the investigation.

C. Issues and Evidence on Appeal. The issues and evidence raised on appeal shall be limited to those raised and identified during the investigation, unless new evidence becomes available after the Campus investigation process and is made part of the appeal by the appealing party. The CO may conduct an interview, at the CO’s discretion, with the appealing party to clarify the written appeal. Appeals shall be addressed to:

   Equal Opportunity and Whistleblower Compliance Unit
   Systemwide Human Resources
   Office of the Chancellor
   401 Golden Shore, 4th Floor
   Long Beach, California 90802
   co-wbappeals@calstate.edu

D. Acknowledgement of Appeal. The CO shall provide prompt written acknowledgement of the receipt of the appeal to the appealing party, and will provide written notification of the appeal to the other party and the Campus DHR Administrator or Title IX Coordinator.

E. Reasonable Accommodation. The CO will provide reasonable accommodation(s) to any party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. A reasonable accommodation may include an extension under these procedures. The timeframe for the CO Appeal Response will automatically be adjusted for the time needed, if any, to provide reasonable accommodation(s).
F. **Scope of CO Review.** The CO review will not involve a new investigation by the CO and will not consider evidence that was not introduced during the Campus investigation, unless the new evidence was not available at the time of the Campus investigation process. The CO may make reasonable inquiries to determine if the new evidence could have affected the investigation determination. If the CO review determines the investigation should be reopened to cure any defects in the investigation and/or consider new evidence introduced for the first time on appeal (that could have affected the investigation determination), the investigation will be remanded back to the Campus and the investigation reopened at the Campus level.

G. **Reopening a Campus Investigation.** The CO will return the matter to the Campus and will specify in writing the timeline by which a reopened investigation must be completed. The CO will notify the Parties of the reopening of the investigation and the timeline for completion of the reopened investigation. The Campus will complete the reopened investigation and provide the CO with an amended investigation report. The Campus will also provide the Parties with amended Notices of Investigation Outcome, and such Notices will provide the Parties the opportunity to appeal any new or amended findings, in accordance with this Executive Order. Upon receipt of the amended investigation report, the CO will contact the appealing party to determine whether that party wishes to continue with the appeal.

H. **Timeline.** The CO shall respond to the appealing party no later than **30 Working Days** after receipt of the written appeal unless the timeline has been extended as specified in Article V. E below.

I. **CO Appeal Response.** The CO Appeal Response shall include a summary of the issues raised on appeal, a summary of the evidence considered, the Preponderance of the Evidence standard, and the determination(s) reached regarding the issue(s) identified within the written appeal. A copy of the final CO Appeal Response shall be forwarded to the Complainant and Respondent, as well as the Campus DHR Administrator or Title IX Coordinator.

The CO Appeal Response is final and concludes the Complaint and CO review process under this Executive Order.

**Article V. General Provisions for Campus Investigation/CO Appeal Review**

A. **Impartial Investigations.** All investigations and reviews shall be conducted impartially and in good faith.

B. **Cooperation in an Investigation.** Students and Employees are required to cooperate with the investigation and other processes set forth in this Executive Order, including but not limited to, attending meetings, being forthright and honest during the process, and keeping confidential the existence and details of the investigation/review. If a Complainant and/or Respondent refuse to cooperate, the CSU may draw all reasonable
inferences and conclusions on the basis of all available evidence and conclude the investigation/review.

C. **False Allegations Prohibited.** A Complainant shall proceed with a Complaint in good faith. A Complainant who knowingly and intentionally files a false Complaint or any individual who is determined to have provided false statements or information during the investigation/appeal review shall be subject to discipline in accordance with applicable collective bargaining agreements, CSU policies, and legal requirements (e.g., Education Code Section 89530 et seq.). Such disciplinary action shall not be deemed to be Retaliation.

D. **Input into the Investigation.** Both the Complainant and Respondent shall have the right to identify witnesses and other evidence for consideration; however, the CSU shall decide what evidence is relevant and significant to the issues raised.

E. **Timelines and Extensions.** The timeline for the procedures contained within this Executive Order may be extended for any reason deemed to be legitimate by the Campus Investigator/CO Appeal reviewer or by mutual agreement of the Parties. The timelines stated within this Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional 30 Working Days for a Campus investigation or an additional 30 Working Days for a reopened Campus investigation under Article IV. The Complainant and Respondent shall receive written notification of any period of extension.

F. **Delivery.** When submitting a Complaint or issuing any notices required by this Executive Order, personal delivery, overnight delivery services, electronic mail, or certified mail may be used. If personal delivery is used, a proof of service shall be prepared attesting to the calendar date of delivery, which will establish the date of filing or response. If certified mail delivery is used, the postmark shall establish the date of filing or response. Electronic communications must be sent to the designated CSU or Campus e-mail address unless the intended recipient has specified a different address. Electronic communications will be deemed received on the date sent.

G. **Investigation Not Warranted.** In the event that a Campus determines an investigation is not warranted, the reasons for that decision shall be reduced to writing and retained by the Campus according to appropriate record retention policies.

H. **Information Requests.** Where it is necessary for the Complainant or Respondent to have access to specific information for the purpose of filing a Complaint or CO Appeal, the Complainant or Respondent shall make a written request for such information to the Campus. The Complainant or Respondent shall have access to information within the policies, procedures and laws governing confidentiality and privacy that are relevant to any issue raised in the Complaint. This provision does not authorize a Complainant or Respondent access to the personnel files of another without the written consent of that person.
I. **Employee Rights.** Nothing contained herein is intended or should be construed to interfere with an Employee’s right to consult with a representative.

J. **Release Time.** Taking into account campus operational needs, CSU shall provide the Complainant and Advisor, if any, reasonable release time for preparing and presenting the Complaint upon their request.

Taking into account campus operational needs, CSU shall provide Unit 3 and 4 Complainants and any Advisor (who is in the same bargaining unit) with reasonable release time for preparing and presenting the Complaint upon request. Taking into account campus operational needs, CSU shall provide any Advisor to Unit 3 or 4 Respondents reasonable release time for the purposes of providing advice to the Respondent under this Executive Order, where both the Respondent and Advisor are in the same bargaining unit.

K. **External Remedies.** A Complainant may choose to pursue remedies with outside government agencies at any time without waiting for the conclusion of the CSU Complaint process under this Executive Order.

**Article VI. Definitions**

For purposes of this Executive Order, the following definitions apply:

A. **Adverse Action** means an action that has a substantial and material adverse effect on the Complainant's employment or ability to participate in a University program or activity free from Discrimination, Harassment or Retaliation. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.

B. **Advisor:** The Complainant and the Respondent may each elect to be accompanied by an Advisor to any meeting or interview regarding the allegations. The Advisor may be anyone, including a union representative from the Complainant’s or Respondent’s collective bargaining unit, an attorney, or, in the case of the Complainant, a Sexual Assault Victim’s Advocate, provided the Advisor is not a person with information relevant to the allegations who may be interviewed by the Investigator during the investigation. The Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent. However, the Advisor may observe and consult with the Complainant or Respondent and take appropriate action to ensure that the investigation does not violate applicable laws, policies, or collective bargaining agreements.

C. **Affirmative Consent** means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean consent nor does silence mean consent.
Affirmative Consent can be withdrawn or revoked. Affirmative Consent cannot be given by a person who is incapacitated.

A person with a medical or mental Disability may also lack the capacity to give consent.

Sexual activity with a minor (under 18 years old) is never consensual because a minor is considered incapable of giving legal consent due to age.

See Article I. E. for more information.

D. **Age**, with respect to employment discrimination, refers to the chronological age of any individual who has reached his or her 40th birthday. With respect to discrimination in non-employment programs and activities, Age means how old a person is, or the number of years from the date of a person’s birth. Age based stereotype refers to generalized opinions about matters including the qualifications, job performance, health, work habits, and productivity of individuals over forty.

Age is a Protected Status.

E. **Calendar Days** are defined as Monday through Sunday and include official holidays.

F. **California State University (CSU)** means the 23 Campus system of the California State University, including the CO.

G. **Campus or University** means any of the 23 Campuses of the CSU or the CO.

H. **CO Appeal Response** refers to the decision provided to the Complainant and the Respondent upon completion of the appeal process provided under Article IV.

I. **Complainant** means an individual who is eligible to file a Complaint or report a violation of this policy. See Article III. A for a description of those eligible to file a Complaint. It also includes any person who is reported to have experienced a violation of this policy in cases where some other person has made a report on that person’s behalf. A Complainant may also be referred to as a party to the Complaint.

J. **Complaint** means a report of a violation of this policy or a written communication that complies with Article III. C. 2 alleging Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking, against the CSU, an Employee, a Student, or a Third Party.

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9 See 34 C.F.R. 110.3
K. **Dating Violence** is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim. This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, “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 self, or another. Abuse does not include non-physical, emotional distress or injury.

L. **DHR (Discrimination, Harassment, and Retaliation) Administrator** means the Management Personnel Plan (MPP) Employee at each Campus who is designated to administer this Executive Order and coordinate compliance with the laws prohibiting Discrimination, Harassment and Retaliation. The DHR Administrator may delegate tasks to one or more designees, provided that any designee shall be a MPP Employee or an external consultant, and the DHR Administrator retains overall responsibility and authority. **MPP Employee** means an employee who has been designated as a “management” or “supervisory” employee under the provisions of the Higher Education Employer-Employee Relations Act. The Campus president may assign the roles of the DHR Administrator and Title IX Coordinator to the same person. The names of, and contact information for the DHR Administrator and Title IX Coordinator shall be made readily available to the Campus community and Third Parties as described in Article II.

M. **Disability**, as defined in California Government Code § 12926 and the federal Americans with Disabilities Act (ADA), 2008 Amendments, means:

1. Having a physical or mental condition that limits a major life activity. “Limits” means making the achievement of a major life activity difficult. “Limits” is determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity. A “major life activity” is broadly construed and includes physical, mental, and social activities (such as walking, talking, seeing, hearing) and working; or
2. Having a known history of a qualifying impairment; or
3. Being regarded or treated as having or having had a qualifying impairment; or
4. Being regarded or treated as having or having had such an impairment that has no presently disabling effects but may become a qualifying impairment in the future.

Disability includes HIV and AIDS. Disability is a Protected Status.

N. **Discipline** means any disciplinary action taken to correct a violation of the prohibitions against Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking set forth in this Executive Order. Discipline for Employees includes, but is not limited to, suspension, demotion and termination of employment. Discipline for Students includes, but is not limited to, probation, suspension

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10 See Cal. Penal Code § 13700 (b).
11 See Cal. Code Regs. Title 5 § 42720 et seq.
and expulsion. Suspension of one academic year or more, expulsion, withdrawal in lieu of suspension or expulsion, and withdrawal with pending misconduct investigation or disciplinary proceeding shall be entered on the Student’s transcript permanently without exception; this requirement cannot be waived in connection with any settlement agreement. See the definition of Remedies below.

O. **Discrimination** means Adverse Action taken against an Employee or Third Party by the CSU, a CSU employee or a Student, because of a Protected Status.

P. **Domestic Violence** is abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the Respondent has a child; someone with whom the Respondent has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. 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 spouses; (5) the continuity of the relationship; and, (6) the length of the relationship. For purposes of this definition, “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 self, or another.12 Abuse does not include non-physical, emotional distress or injury.

Q. **Employee** means a person legally holding a position in the CSU. This term includes full-time, part-time, permanent, tenured, probationary, temporary, intermittent, casual, and per-diem positions. This term does not include auxiliary or foundation Employees or other Third Parties.13

R. **Gender** means sex, and includes Gender Identity, Gender Expression, and transgender. It also includes sex stereotyping.14

Sex includes, but is not limited to, pregnancy, childbirth, breastfeeding or any related medical condition(s).15

Gender Identity means a person’s identification as male, female, a gender different from the person’s sex at birth, or transgender.

Gender Expression means a person’s gender-related appearance or behavior whether or not stereotypically associated with the person’s assigned sex at birth.

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12 See Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.
15 See Cal. Gov. Code § 12926(r); 34 C.F. R. 106.40
Sex stereotype means an assumption about a person’s appearance or behavior or about an individual’s ability or inability to perform certain kinds of work based on a myth, social expectation, or generalization about the individual’s sex.

Transgender is a general term that refers to a person whose gender identity differs from the person’s sex at birth. A transgender person may or may not have a gender expression that is different from the social expectations of the sex assigned at birth. A transgender person may or may not identify as transsexual.

Gender is a Protected Status.

S. Genetic Information means:

- The person’s genetic tests.
- The genetic tests of the person’s family members.
- The manifestation of a disease or disorder in the person’s family members.
- Any request for, or receipt of genetic services, or participation in clinical research that includes genetic services, by a person or any person’s family member.
- Genetic Information does not include information about the sex or age of any person.

Genetic Information is a Protected Status.

T. Harassment means unwelcome conduct engaged in because of a Complainant’s Protected Status and:

- Submission to, or rejection of, the conduct is made a term or condition of the Complainant’s employment; or
- Submission to or rejection of such conduct by the Complainant is used as the basis or threatened to be used as the basis for employment actions or decision affecting the Complainant; or
- The conduct is sufficiently severe or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as intimidating, hostile or offensive.

Harassment includes, but is not limited to, verbal harassment (e.g., epithets, derogatory comments, or slurs), physical harassment (e.g., assault, impeding or blocking movement, or any physical interference with normal work or movement), and visual forms of harassment (e.g., derogatory posters, cartoons, drawings, symbols, or gestures.)

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16 See Cal. Govt. Code § 12926(g).
U. **Investigator** means the person tasked by a Campus with investigating a Complaint. All Investigators shall receive annual training regarding such issues as the laws governing Discrimination, Harassment and Retaliation; Title IX and VAWA/Campus SaVE Act; as well as other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or Sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking; Complainant, Respondent, Employee, and witness privacy rights; and the Family Educational Rights and Privacy Act of 1974 (FERPA). For matters involving Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking, the Investigator shall also receive annual training on how to conduct an investigation process that protects the safety of the Complainant(s) and the University community. (See also Executive Order 1095 regarding required training for Sexual Harassment and Sexual Misconduct investigations.)

If delegated, the DHR Administrator or the Title IX Coordinator (for Complaints alleging Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking) shall monitor, supervise, and oversee the investigation to ensure that it is conducted in accordance with the standards, procedures and timelines set forth in this policy.

The Investigator shall not be within the administrative control or authority of any Respondent CSU Employee. The Investigator may be the DHR Administrator, the Title IX Coordinator, or their designee, provided that any designee shall be a MPP Employee or an external consultant.

V. **Marital Status** means an individual’s state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state. 17

Marital Status is a Protected Status.

W. **Medical Condition** means either of the following:

1. Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer; or

2. Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

   a. Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder; or

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17 See 2 Cal. Code Regs.§11053,
b. Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.  

Medical Condition is a Protected Status.

X. Nationality includes citizenship, country of origin, and national origin. It also includes language use restrictions and holding or presenting a driver’s license issued under section 12801.9 of the Vehicle Code.

Nationality is a Protected Status.

Y. Parties to a Complaint are the Complainant(s) and the Respondent(s).

Z. Preponderance of the Evidence means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. The Preponderance of the Evidence is the applicable standard for demonstrating facts and reaching conclusions in an investigation conducted pursuant to this Executive Order.

AA. Protected Status includes Age, Disability (physical or mental), Gender (or sex), Genetic Information, Gender Identity (including transgender), Gender Expression, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion or Religious Creed, Sexual Orientation, and Veteran or Military Status.

BB. Race or Ethnicity includes ancestry, color, ethnic group identification, and ethnic background.

Race or Ethnicity is a Protected Status.

CC. Religion or Religious Creed includes all aspects of religious belief, observance, and practice, including religious dress and grooming practices, and includes agnosticism and atheism. Religious dress and grooming practices, such as wearing religious clothing, head or face covering, jewelry, and artifacts, are part of a Complainant’s religious observance or belief.

Religion or Religious Creed is a Protected Status.

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DD. **Remedies** means actions taken to correct allegations and/or reported violations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking as set forth in this Executive Order. Remedies can include Discipline or other corrective action.

**Interim Remedies** shall be offered prior to the conclusion of an investigation in order to immediately stop any wrong-doing and/or reduce or eliminate any negative impact, when appropriate. Persons reporting that they have been the victim of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating or Domestic Violence, or Stalking must be provided reasonable and available Interim Remedies, if requested, regardless of whether the person chooses to report the conduct to Campus police or local law enforcement, and regardless of whether an investigation is conducted under this Executive Order. Examples may include offering the option of psychological counseling services, changes to work area, work assignments, or supervisory reporting relationship, or any measure as appropriate to stop further alleged harm until an investigation is concluded or a resolution is reached. The Title IX Coordinator shall assist and provide the Complainant with reasonable Remedies as requested throughout the reporting, investigation, appeal, and disciplinary processes, and thereafter.

EE. **Respondent** means the CSU, a CSU Employee, a Student, or a Third Party who is alleged to have violated this Executive Order.

FF. **Retaliation** means Adverse Action taken against a person because the person has or is believed to have:

1. Exercised rights under this Executive Order;

2. Reported or opposed conduct which was reasonably and in good faith believed to be in violation of this Executive Order;

3. Assisted or participated in a policy-related investigation/proceeding regardless of whether the Complaint was substantiated; or,

4. Assisted someone in reporting or opposing a violation of this Executive Order, or assisted someone in reporting or opposing Retaliation under this Executive Order.

Retaliation may occur whether or not there is a power or authority differential between the individuals involved.

GG. **Sexual Assault Victim’s Advocate** refers to Employees or third party professionals appointed to support Complainants reporting Sexual Misconduct. They must be certified and have received specialized training to provide advice and assistance, including, but not limited to, the provision of information about available options in the Complaint, law enforcement, legal, and medical processes, and with emotional and decision making support. Sexual Assault Victim Advocates may serve as the Complainant’s Advisor and assist in seeking services. They are committed to maintain the highest possible level of
confidentiality permissible under state and federal law in their communications with the persons they assist. Sexual Assault Victim’s Advocates are appointed based on experience and demonstrated ability to effectively provide services to victims/survivors/Complainants. (See Executive Order 1095 for more detailed information.)

**HH. Sexual Harassment**, a form of Sex Discrimination, is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes but is not limited to sexual advances, requests for sexual favors, any other conduct of a sexual nature, offering employment benefits or giving preferential treatment in exchange for sexual favors, or indecent exposure, where:

1. Submission to, or rejection of, the conduct by the Complainant is explicitly or implicitly used as the basis for any decision affecting a term or condition of the Complainant’s employment, or an employment decision; or

2. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as creating an intimidating, hostile or offensive environment.

Sexual Harassment could include being forced to engage in unwanted sexual contact in exchange for a raise or promotion; being subjected to video exploitation or a campaign of sexually explicit graffiti; or frequently being exposed to unwanted images of a sexual nature in the work environment.

Sexual Harassment also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on Gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

This policy covers unwelcome conduct of a sexual nature. While romantic, sexual, intimate, personal or social relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Sexual Harassment or Sexual Misconduct, including Dating or Domestic Violence, or Stalking, subject to this policy.

Claiming that the conduct was not motivated by sexual desire is not a defense to a complaint of harassment based on Gender.

**II. Sexual Misconduct**: All sexual activity between members of the CSU community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.

Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape, and Dating Violence. When based on Gender, Domestic Violence or Stalking also constitute Sexual Misconduct. Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person’s intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person’s incapacitation (including voluntary intoxication) to engage in sexual activity. Men as well as women can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when the Complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

1. **Sexual Assault** is a form of Sexual Misconduct and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person’s Gender or sex.\(^{23}\)

2. **Sexual Battery** is a form of Sexual Misconduct and is any willful and unlawful use of force or violence upon the person of another because of that person’s Gender or sex as well as touching an intimate part of another person against that person’s will and for the purpose of sexual arousal, gratification, or abuse.\(^{24}\)

3. **Rape** is a form of Sexual Misconduct and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because the person is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical Disability renders a person incapable of giving consent. The Respondent’s relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of Affirmative Consent above.)\(^{25}\)

4. **Acquaintance Rape** is a form of Sexual Misconduct committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. (See above for definition of Rape.)

**JJ. Sexual Orientation** means one’s preference in sexual partners and includes heterosexuality, homosexuality, or bisexuality.\(^{26}\)

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\(^{26}\) See Cal. Govt. Code § 12926(s).
Sexual Orientation is a Protected Status.

**KK. Stalking** means engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for the safety of self or others’ safety or to suffer Substantial Emotional Distress.\(^{27}\) For purposes of this definition:

1. **Course of Conduct** means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through Third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property;

2. **Reasonable Person** means a reasonable person under similar circumstances and with the same Protected Status(es) as the Complainant;

3. **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

**LL. Student** means an applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting a degree, a CSU student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including investigation) is pending.

**MM. Third Party** means a person other than an Employee or a Student. Examples include employees of auxiliary organizations\(^{28}\), unpaid interns, volunteers, independent contractors, vendors, and their employees, and visitors.

**NN. Title IX** means Title IX of the Education Amendments of 1972.

**OO. Title IX Coordinator** means the Campus MPP Employee appointed by the Campus president to coordinate compliance with Title IX; VAWA/Campus SaVE Act; and other related state and federal laws prohibiting Discrimination, Harassment and Retaliation based on Gender or sex, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence and Stalking. (See Executive Order 1095.)

**PP. VAWA** means the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Crimes Statistics Act, commonly known as the Clery Act) (20 U.S.C. 1092(f)), under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act).

\(^{27}\) See Cal. Penal Code § 646.9

\(^{28}\) See 5 Cal. Code Regs. § 42406.
QQ. Veteran or Military Status means service in the uniformed services.

   Veteran or Military Status may be a Protected Status.

RR. Working Days are defined as Monday through Friday, excluding all official holidays or Campus closures at the Campus where the Complaint originated or at the CO where an Appeal is reviewed.

Attachments: CSU Complaint Form
CSU Executive Order 1096 Procedure Timeline

Dated: October 5, 2016

Revision History:
As a result of the issuance of this Executive Order, the following documents are superseded as of the effective date of this Executive Order and are no longer applicable:

- Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties), dated June 23, 2015

- Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties), dated June 3, 2014

- Executive Order 1089 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedures for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties), dated October 23, 2013

- HR/EEO 2011-01 (Handling Employee Allegations of Discrimination, Harassment and Retaliation), dated January 27, 2011

- Executive Order 928 (Systemwide Complaint Procedure for Discrimination, Harassment and Retaliation Complaints for Employees Not Eligible to File a Complaint or Grievance
Under a Collective Bargaining Agreement or Whose Collective Bargaining Agreement Incorporates CSU Systemwide Complaint Procedure), dated January 6, 2005

- Executive Order 927 (Systemwide Policy Prohibiting Harassment in Employment and Retaliation for Reporting Harassment or Participation in a Harassment Investigation), dated January 6, 2005

- Executive Order 883 (Systemwide Guidelines for Nondiscrimination and Affirmative Action Programs in Employment), dated October 31, 2003

- Executive Order 774 (Systemwide Guidelines for Nondiscrimination and Affirmative Action Programs in Employment), dated May 17, 2001

- Executive Order 675 (Systemwide Complaint Procedure for Discrimination Complaints for Employees Not Eligible to File a Discrimination Complaint or Grievance Under a Collective Bargaining Agreement), dated January 19, 1998

- Executive Order 419 (Systemwide Grievance Procedure - Discrimination Complaints for Employees Not Covered by Existing Regulation), dated July 1, 1983

- Executive Order 345 (Prohibition of Sexual Harassment), dated June 1, 1981

- Executive Order 340 (Systemwide Guidelines for Nondiscrimination and Affirmative Action Program in Employment), dated February 27, 1981
COMPLAINT FORM

Instructions: This complaint form is for use by individuals who are eligible to file a complaint of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking under Executive Order 1096. Please fill in all of the information requested below as completely as possible and attach additional pages to this form, if necessary.

CSU Campus ___________________________ Work Phone ___________________________

Last Name ___________________________ First Name ___________________________ MI _______

Cell Phone ___________________________ Home Phone ___________________________

Mailing Address ___________________________

City ___________________________

State _______ Zip Code _______ E-mail ___________________________

What is your relationship with the California State University campus listed above?

Current Employee? Yes ☐ No ☐ Former Employee? Yes ☐ No ☐ Last date of employment _________

An Applicant for employment? Yes ☐ No ☐ A Third Party? Yes ☐ No ☐

Please specify your relationship with the University: ___________________________

Was Early Resolution sought? Yes ☐ No ☐ If yes, with whom: ___________________________ Date _______

Indicate the type(s) of complaint being filed: ☐ Discrimination ☐ Harassment ☐ Retaliation

☐ Sexual Misconduct ☐ Dating Violence ☐ Domestic Violence ☐ Stalking

If you are filing a Discrimination or Harassment complaint, indicate the Protected Status(es) that was/were the basis(es) of the alleged Discrimination or Harassment (Please select all that apply):

☐ Race/Color ☐ Religion ☐ Sexual Orientation ☐ Medical Condition

☐ National Origin/Ancestry ☐ Gender / Sex ☐ Disability ☐ Genetic Information

☐ Marital Status ☐ Gender Identity/Expression ☐ Military/Veteran Status ☐ Age

If you are filing a Retaliation complaint, indicate the activity(ies) you engaged in that was/were the basis(es) for the alleged Retaliation.
1. Identify the Respondent(s) against whom your complaint is made. For each Respondent, provide the identifying information requested below.

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<th>Respondent's name:</th>
<th>Relationship/Association with the campus:</th>
<th>Relationship/Association to you:</th>
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2. Describe the incident(s) or event(s), date(s), time(s), and location(s) giving rise to your complaint.


3. Describe the specific harm you have suffered resulting from the incident(s).


4. What did you or others do to try to resolve the issue? What was the outcome?


5. Identify individuals who may have observed or witnessed the incident(s) that you described.

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6. Do you have any documents or electronic communications (including text messages or email) that support your complaint?

☐ Yes  ☐ No (Please list and attach a copy.)

7. Do you have any physical evidence (such as photographs, videos, blood tests or rape kits) that support your complaint? (Please describe.)

8. Describe the outcome(s) you expect from filing your complaint. Be as specific as possible.

You may elect to have an Advisor present at meeting(s) and/or interview(s) which may be a Sexual Assault Victim’s Advocate. If you indicate you will have an Advisor, you are authorizing that individual to accompany you to any meeting(s) and/or interview(s) regarding this complaint. The role of the Advisor is limited to observing and consulting with you.

9. If you will be accompanied by an Advisor, please provide the name and telephone number.

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CERTIFICATION

I certify that the information given in this complaint is true and correct to the best of my knowledge or belief.

Print name of Complainant ________________________________
Signature of Complainant ________________________________
Date ______________

For University Use Only: Date Complaint Received ____________ Signature ________________________________
Executive Order 1096 provides a systemwide procedure for handling allegations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking by certain individuals (see Article III C. 1. Filing a Complaint.) Below is a summary of the Executive Order 1096 procedure timeline. For a full understanding and complete text, please consult Executive Order 1096.

- **Immediately following an act/action/incident that falls under Executive Order 1096** or as soon as possible thereafter, Complainants who believe they are or may have been victims of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking, may initiate the Article III. Campus Procedure for Responding to Complaints to receive information about the procedures that exist for resolving such matters. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

For the purpose of this Executive Order, Working Days are defined as Monday through Friday, excluding all official holidays or Campus closures at the Campus where the Complaint originated or at the Chancellor’s Office (CO) where the Complaint Appeal is reviewed.

- **Within ten (10) Working Days after receipt of a Complaint**, an intake interview shall be conducted with the Complainant.

- **Within ten (10) Working Days** after reviewing all written Complaints and the information received during the intake interview, the Discrimination/Harassment/Retaliation (DHR) Administrator or Title IX Coordinator will notify the Complainant that the Complaint has been accepted for investigation and the timeline for completion of the investigation. If the DHR Administrator or Title IX Coordinator determines the Complainant has failed to state a Complaint within the scope of this Executive Order, s/he will provide the Complainant with written notice of this determination within ten (10) Working Days. The DHR Administrator or Title IX Coordinator will also inform the Complainant that if additional information is provided, the Complaint will be reviewed again.

- **Within sixty (60) Working Days after the intake interview**, the Investigator shall complete the investigation, write and submit an investigation report to the campus designated DHR Administrator or Title IX Coordinator. If this timeline is extended pursuant to Article V. E, it shall not be extended for a period longer than an additional thirty (30) Working Days from the original due date.

- **Within ten (10) Working Days of receiving the investigation report**, the DHR Administrator or Title IX Coordinator shall review the investigation report and notify the Parties in writing of the investigation outcome. If the DHR Administrator or Title IX Coordinator performed the investigation, s/he shall notify the Parties in writing of the investigation outcome within ten (10) Working Days of completing the investigation report. The Notice shall indicate whether or not this Executive Order was violated and the Complainant’s and Respondent’s right to file an Appeal under this policy.
Executive Order 1096 Procedure Timeline

- **Within ten (10) Working Days after the date of the Notice of Investigation Outcome**, the Complainant may file a written appeal with the CO.

- **Within thirty (30) Working Days after receipt of the written Appeal**, the CO designee shall respond to the appealing party, unless the timeline has been extended pursuant to Article IV. G or Article V. E. A separate notification shall be provided to the non-appealing party, indicating whether or not the allegations were substantiated on Appeal by a Preponderance of the Evidence.

- **Closure.** The CO Appeal Response is final and concludes the Complaint and Appeal process under this Executive Order.

**Pursuant to EO 1096, Article V. E, the timelines noted above may be extended as follows:**

The timeline for the procedures contained within this Executive Order may be extended for any reason deemed to be legitimate by the Campus investigator/CO Appeal reviewer or by mutual agreement of the Parties. The timelines stated within this Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional **thirty (30) Working Days** for a Campus investigation or an additional **thirty (30) Working Days** for a reopened Campus investigation under Article IV. The Complainant and Respondent shall receive written notification of any period of extension.
Statutes and Legal Requirements.pdf
Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions
CPC 422.55 - Provides general definition of hate crimes in California.
CPC 422.56 - Provides definitions of terms included in hate crimes statutes.
GC 12926 - Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes
CPC 422.7 - Commission of a crime for the purpose of interfering with another’s exercise of civil rights.

Related Crimes
CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.
CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.
CPC 288(b)(2) - Sexual assault of dependent person by caretaker
CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.
CPC 594.3 - Vandalism of places of worship.
CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.
CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes
CPC 422.6 - Use of force, threats, or destruction of property to interfere with another’s exercise of civil rights.
CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes
CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.
CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.
CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.
CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.
Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023 - Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.
CPP use of force.pdf
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