

Montclair Police Department

Montclair PD Policy Manual

INTRODUCTION FROM THE CHIEF OF POLICE

We at the Montclair Police Department strive to provide the highest level of service to those who live, work, and visit in the City of Montclair. Our police officers, dispatchers, and professional staff are dedicated to look, act, and be professional in all aspects of their profession. We not only work to disrupt crime in our community, we work with our community to address a multiple issues including quality of life concerns, mental health concerns, traffic and parking issues, civil disputes; all while ensuring our methodology is carried out in an equitable, contemporary, and legal manner.

The Montclair Police Department provides the most modern technology, equipment, and training to its members allowing them to best serve the community. We are proud be and serve a diverse populace that adapts to the changing needs of the community. We work closely with other City departments and regional organizations to facilitate the delivery of specialized services to those in need.

The City of Montclair's elected officials support and entrust us to provide the safest environment possible in which its residents, visitors, and commerce can thrive. We serve with integrity, honor, courage, and pride.

In order to provide the highest level of service possible to the City of Montclair, it is my duty to ensure the members of the Montclair Police Department are valued; not only through words but by my actions. I strive to continually observe, mentor, and listen to the members of this organization so i may make adjustments, keep employee morale elevated, provide wellness programs to employees, and employ every possible means necessary to complete our mission statement of "Commitment to Service."

Jason Reed

Chief of Police

Montclair Police Department

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MISSION STATEMENT

We, the members of the Montclair Police Department, in collaboration with the community, are committed to providing the highest level of service and public safety to those who visit, live, and work in the City of Montclair.

Through our commitment to service and duty to protect, we will maintain public trust by respecting individual rights while at all times being professional, fair, and responsive to the needs of our community. In our pursuit of justice, we do so with honor and integrity, conducting ourselves with the highest level of ethical standards.

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Chapter 1 - Law Enforcement Role and Authority

Law Enforcement Code of Ethics

100.1 PURPOSE AND SCOPE

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

100.2 POLICY

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

100.3 LAW ENFORCEMENT CODE OF ETHICS

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

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

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

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

100.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

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

Law Enforcement Authority

101.1 PURPOSE AND SCOPE

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

101.2 POLICY

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

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

101.3 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.).

101.3.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE MONTCLAIR POLICE DEPARTMENT

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

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

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed within the City, or while assisting another agency.

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

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101.3.2 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE MONTCLAIR POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Montclair 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.

101.3.3 TIME OF MISDEMEANOR ARRESTS

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

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

101.3.4 OREGON AUTHORITY

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

- (a) In response to a request for law enforcement assistance initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.
- (b) In response to a reasonable belief that emergency law enforcement assistance is necessary to preserve life, and circumstances make it impractical for Oregon law enforcement officials to formally request assistance.
- (c) For the purpose of assisting Oregon law enforcement officials with emergency assistance in response to criminal activity, traffic accidents, emergency incidents

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or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident.

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

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

101.4 PHILOSOPHY AND PURPOSE

The philosophy of the Montclair Police Department is to create an environment in which the organization strives to adequately address the needs of its members, the residents and businesses of the community, and visitors to the City.

This is accomplished by fair and impartial application of the codified laws members are empowered to enforce; by providing fair and impartial service for activities encountered during daily duties; by ensuring that all members are treated with dignity and respect; and by establishing an environment in which members believe that service is our most important product.

101.5 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

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

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

101.6 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

102.1 PURPOSE AND SCOPE

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

102.1.1 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

103.1 PURPOSE AND SCOPE

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

103.2 GENERAL OBEDIENCE

Members of this department, whether on-duty or off-duty, shall respect and obey all laws, ordinances, and department regulations and shall perform duties as directed by superiors.

103.2.1 CHAIN OF COMMAND

As a general rule, a member will be required to take direct orders from and be directly responsible to only one superior member. Superiors, however, shall exercise direct command over members outside their usual command in all situations where the police purpose or the reputation of the Department is jeopardized.

103.2.2 BYPASSING CHAIN OF COMMAND

The chain of command from the Chief of Police and down through the ranks and the line of authority up the ranks in ascending order shall be preserved. Ranks shall not be bypassed except where specifically authorized by this manual.

Members shall not take matters directly to the Chief of Police or other ranking members which should ordinarily be taken up with their immediate superior, unless it is a matter in which the superior member has been so advised, or as otherwise allowed.

103.2.3 UNIFIED COMMAND

In the event of an emergency necessitating immediate action under a single unified command, all members and equipment of the Department shall be under the command of:

- (a) First: Chief of Police
- (b) Second: Captain
- (c) Third: Lieutenant
- (d) Fourth: Sergeant
- (e) Fifth: Officer in Charge (OIC)

An emergency is defined as any situation arising that calls for action over and above the ordinary or routine police activity and requires the entire department to function under a single command for the length of time as such emergency may exist.

103.2.4 ACTING SUPERIOR MEMBERS

A member temporarily filling the position of a superior shall be vested with all the authority and responsibilities of a superior. The acting superior member shall not interfere with, countermand,

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or modify the orders previously issued by another superior, except in an extreme emergency or to fulfill the police mission.

103.2.5 SPECIAL SUPERVISORS

Members shall comply with the rules and instructions of the trainer regulating their conduct while attending any assigned school or while in the field training phase. Members shall obey the rules and instructions of the rangemasters at the range.

103.2.6 ASSUMPTION OF COMMAND

The Watch Commander shall have charge of all field forces. The Watch Commander may assume control and command of any other police resource that may be required to accomplish the police mission. Command is retained until relieved by a superior or assigned to another. There shall only be one watch commander.

103.2.7 SENIORITY

When a question of seniority arises, such seniority shall be determined first by rank and secondly by continuous service in the rank.

103.3 COMPLIANCE

All lawful orders of a superior member shall be faithfully and promptly obeyed and enforced without question or argument. If a member to whom an order is given does not clearly understand it, the member shall ask for such information as may be necessary for a clear understanding. Members shall not publicly criticize an order given by a superior member.

103.3.1 CONFLICTING ORDERS

Should an order or instruction conflict with any previous order issued by another supervisor, or with any department order or provision of department manuals, the member to whom such order is issued shall respectfully call attention to the conflict. If the supervisor giving the order does not make changes to rectify the conflict, the order shall stand, and the responsibility shall be the supervisor's. The member receiving the order may request the order in writing and shall not be held responsible for disobedience of the original order. The written order shall be given to the member as soon as possible, depending on the circumstances. It is sufficient for the member to know that the person giving the order is in proper command.

103.3.2 RESPONSIBILITY

Each supervisor shall strive to create and maintain a high degree of morale among members. They shall constantly evaluate the quality and quantity of subordinates' work. Supervisors shall have knowledge of their subordinates' progress and assist them by counsel, advice, and direction. They shall be required to suggest and recommend solutions to problems that arise. They shall give particular attention to the training of new members. They shall familiarize themselves with the capabilities of the members under their command. They shall report to the Chief of Police through appropriate channels, in writing, any member under their command who is for any reason mentally or physically unfit for duty.

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103.3.3 UNITY OF COMMAND

It shall be the duty of every supervisor to know who they are responsible for at all times. It shall be the responsibility of every member to know to whom they are responsible.

Each member of this department shall have a supervisor, namely, the next above them in the chain of command. Supervisors are accountable for the proper execution of every order issued by them or by any supervisor of this department affecting the members working for them. They are, therefore, deemed to supervise such execution of orders by oral or written instructions.

103.4 MEMBER DEVELOPMENT

Supervisors will be responsible for the development of proper attitudes and work habits of their subordinates. They shall, by action, manner, and attitude promote understanding of all procedures, policies, instructions, and orders.

103.4.1 PERFORMANCE APPRAISALS

Supervisors shall be fair and impartial in evaluating the work and progress of their subordinates. In preparing performance appraisals, supervisors shall present an honest assessment of the member's performance, including strengths and weaknesses. The performance appraisal shall include constructive criticism and recommendations for improvement.

103.4.2 EXERCISE OF DISCIPLINE

Supervisors shall be held responsible for the immediate investigation of any report of laxity in work performance or violations of rules, regulations, procedures, or policies on the part of any subordinates.

103.5 BRIEFING SESSION

When practical, supervisors shall meet with all members reporting for duty assigned to their shift. They shall inform them of any special assignments or orders, as well as checking their personal appearance, dress, punctuality, and fitness for duty. They shall review the prior shift's Dispatch Log and turnover book.

103.5.1 END OF WATCH RESPONSIBILITY

Supervisors going off-duty shall report to their relief all facts and conditions relative to police business that may be necessary knowledge for the relief shift.

103.6 EXERCISE OF AUTHORITY

Superiors shall exercise the authority of their position under all conditions which require such authority, in the best interest of this department. Authority in the Department shall be exercised with firmness and impartiality.

103.6.1 FIELD SUPERVISION

Field supervisors shall monitor activity of members as often as practicable. They shall remain in the field as much as possible.

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Field supervisors shall review all arrests made by officers assigned to their shift whenever practicable. Whether review is prior to or after booking, it is the supervisor who is ultimately responsible to ensure a legal arrest was made and proper procedures followed.

103.7 CONDUCT STANDARDS AND AFFILIATIONS

As a law enforcement agency, the Montclair Police Department is expected to maintain the public trust and present a professional image through its daily operations and the conduct, both on-duty and off-duty, of its members. As representatives of the law enforcement community, the members of the Montclair Police Department are held to a higher standard inherent with their chosen profession. We will not lie, steal, or cheat, nor tolerate among us anyone who does. With this in mind, the Montclair Police Department discourages conduct and affiliations that would negatively impact the public perception of this department and its members or potentially subject this department or its members to public scrutiny, liability, or allegations of misconduct.

103.8 POLICY

It is the policy of the Montclair 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.

103.9 OATH OF OFFICE

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

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

103.10 MAINTENANCE OF RECORDS

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

103.11 IDENTIFICATION AS A DEPARTMENT MEMBER

Members shall give their first and last name and, if requested, their identification number, when asked to do so by persons met in the line of duty; unless such action or release of information is prohibited by department regulations or is likely to jeopardize the successful completion of a police assignment.

Policy Manual

104.1 PURPOSE AND SCOPE

The manual of the Montclair 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.

104.1.1 DISCLAIMER

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

104.2 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.

104.2.1 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 Montclair Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Montclair Police Department reserves the right to revise any policy content, in whole or in part.

104.2.2 STAFF

Staff shall consist of the following:

- (a) Chief of Police
- (b) Captains

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(c) Lieutenants

(d) Records Supervisor

Staff may review all recommendations regarding proposed changes to the manual at staff meetings.

104.2.3 OTHER PERSONNEL

All department members suggesting revision of the contents of the Policy and Procedures Manual shall forward their suggestion, in writing, to the Captain through the chain of command, who will consider the recommendation and forward it to staff.

104.3 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.

104.3.1 ACCEPTABLE ABBREVIATIONS

The following abbreviations are acceptable substitutions in the manual:

- Departmental Directives may be abbreviated as "DD"
- Policy Manual sections may be abbreviated as "Section 106.X" or "§ 106.X"

104.3.2 DEFINITIONS

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

Adult - Any person 18-years of age or older

C.F.R. - Code of Federal Regulation

CHP - The California Highway Patrol

City - The City of Montclair

Command Staff - A person holding the rank of lieutenant and above

Commanding Officer - A member appointed to the rank of lieutenant or higher or who is assigned by the Chief of Police to act in such a rank

Department/MPD - The Montclair Police Department

Department Directives - An interdepartmental communication used by the Chief of Police to make immediate changes to policy and procedure

DMV - The California Department of Motor Vehicles

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Duty Command - A command staff member who is available for questions and assistance from 0800 on Monday through 0800 the following Monday. The responsibility of Duty Command will rotate weekly between command staff members. A copy of the Duty Command Roster shall be posted in the Watch Commander's office and in Dispatch.

Employee/Personnel - Any person employed by the Department

Field Supervisor/Watch Commander - An officer, usually a sergeant, in charge of field forces

General Policy - Departmentally adopted policies concerning personnel, service requirements, equipment, and other areas which are not operational or procedural

Job Classification - Job descriptions and role definitions in this manual are for departmental reference and may not accurately reflect the most current job classification for any member. Job classifications for each position are on file with the City's Personnel Department.

Juvenile - Any person under the age of 18-years

Manager - A member of command staff, including the Records Supervisor

May - Indicates a permissive, discretionary or conditional action

Member - Any person who is employed or appointed by the Police Department including sworn officers and non-sworn (professional staff) employees. This includes reserve officers and volunteers.

Memorandum of Understanding (MOU) - A memorandum of understanding (MOU) currently in existence, applying to that class of employees/members

Minor - A person under the legal age of full responsibility

Non-Sworn - Those professional staff members and volunteers who are not sworn peace officers

Officer/Sworn - Those members, regardless of rank, who are sworn members of the Montclair Police Department

Officer-in-Charge - Any officer in charge of a shift, usually not a sergeant

On-Duty - Employee 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

Organization - The administrative and functional structure of the Department

Plurality of Words - The singular includes the plural, and the plural includes the singular

Policy Manual - The Montclair Police Department Policy and Procedures Manual

POST - The California Commission on Peace Officer Standards and Training

Procedures - General and specific courses of action

Rank - The job classification title held by an officer

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Shall or Will - Indicates a mandatory action

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

Staff Member - A command staff member, including the Records Supervisor

Superior - Sworn or civilian supervisor

Sworn Rank Structure - The official sworn ranks, in descending order, shall be:

- (a) Chief of Police
- (b) Captain
- (c) Lieutenant
- (d) Sergeant
- (e) Police Officer/Detective/Investigator

Tense of Words - Words used in the present tense include the future

U.S.C. - United States Code

104.3.3 DISTRIBUTION OF MANUAL

Copies of the Policy and Procedures Manual shall be maintained in the following locations:

- (a) Watch Commander office
- (b) Communications
- (c) Records Bureau
- (d) Detective Bureau
- (e) Command Staff offices
- (f) Briefing
- (g) Temporary Holding Facility (15 California Code of Regulations § 1029)

A computerized version of the Policy and Procedures Manual will be made available on the computer network for access by all members. The computerized version will be limited to viewing and printing of specific sections. No changes shall be made to the electronic version without authorization from the Chief of Police.

104.4 DEFINITIONS

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

Adult - Any person 18 years of age or older.

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

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CHP - The California Highway Patrol.

CFR - Code of Federal Regulations.

City - The City of Montclair.

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

Department/MPD - The Montclair Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile - Any person under the age of 18 years.

Manual - The Montclair Police Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

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

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

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

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

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

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

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

Shall or will - Indicates a mandatory action.

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

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

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

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

USC - United States Code.

104.5 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.

104.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

104.7 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 Lieutenant will ensure that members under his/her command are aware of any Policy Manual revision.

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

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 DIVISIONS

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

- (a) Field Services
- (b) Support Services
- (c) Administrative Services

200.2.1 FIELD SERVICES DIVISION

The Field Services Division is commanded by the Captain whose responsibility is to provide general management direction and control for the Field Services Division. The Field Services Division consists of the Field Services Lieutenant(s), Patrol, Community Service Officers (CSO), Traffic Enforcement, School Resource Officers (SRO), Field Training Officer (FTO) Program, SWAT, and Communications. The Captain is the Public Information Officer (PIO) and answers to the Chief of Police.

200.2.2 SUPPORT SERVICES DIVISION

The Support Services Division is commanded by the Captain whose responsibility is to provide general management and control for the Support Services Division. The Captain is the Holding Facility Manager and the Custodian of Records and oversees the Police Department budget, internal affairs, and personnel complaints. The Support Services Division consists of the Detective Bureau,, Records Bureau, Evidence, Technical Services, Cadets, Volunteer Programs, Personnel and Training, Support Services Lieutenant, Special Enforcement Team (SET), Administrative Analyst, Administrative Specialists, and Administrative Aides. The Captain answers to the Chief of Police.

200.2.3 ADMINISTRATIVE SERVICES DIVISION

The Administrative Services Division is commanded by the Chief of Police whose primary responsibility is to provide general management direction and control for the Administrative Services Division.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

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

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Organizational Structure and Responsibility

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

- (a) Captain
- (b) Lieutenant (based on seniority in rank)
- (c) Watch Commander

200.3.2 UNITY OF COMMAND

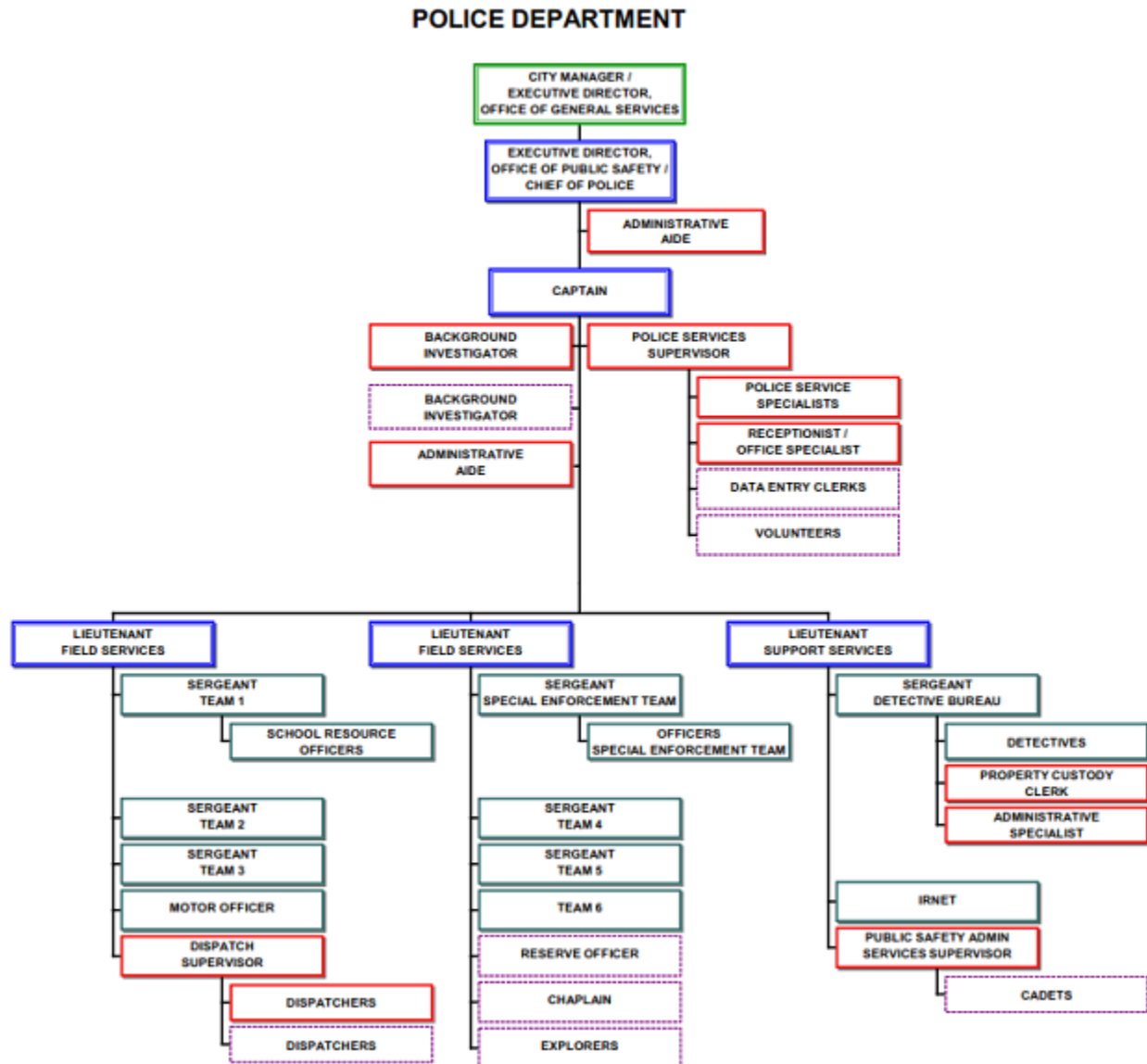
It shall be the duty of every supervisor to know who they are responsible for at all times. It shall be the responsibility of every member to know to whom they are responsible. Each member of this department shall have a supervisor, namely, the next above them in the chain of command. Supervisors are accountable for the proper execution of every order issued by them or by any supervisor of this department affecting the members working for them. They are, therefore, deemed to supervise such execution of orders by oral or written instructions.

200.3.3 ORDERS

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

Organization Chart

201.1 PURPOSE AND SCOPE



Department Directive

202.1 PURPOSE AND SCOPE

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

202.1.1 DEPARTMENT DIRECTIVE PROTOCOL

Department Directives will be incorporated into the Policy and Procedures Manual on upon approval of the Chief of Police. Department Directives will modify existing policies or create a new policy as appropriate. Department Directives shall be issued and signed by the Chief of Police.

Any Department 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, 08-01 signifies the first Department Directive for the year 2008. Department Directive numbers shall be issued and the signed original document maintained by the Administrative Specialist. The Department Directives shall be filed numerically by the year issued.

202.2 RESPONSIBILITIES

202.2.1 STAFF

Staff shall review and the Chief of Police shall approve revisions of the Policy and Procedures Manual, which will incorporate changes originally made by a Department Directive.

202.2.2 CHIEF OF POLICE

The Chief of Police shall issue all Department Directives.

Emergency Management Plan

203.1 PURPOSE AND SCOPE

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

203.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Operations Center (EOC) can be activated by the City Manager and Assistant Director of Emergency Services or the ranking member on-duty. This person could be a Fire Captain or Police Sergeant.

203.3 LOCATION OF THE PLAN

Copies of the Emergency Management Plan for Montclair Police Department members are available in the office of the Chief of Police and the Watch Commander. All supervisors should familiarize themselves with the Emergency Management Plan. The Field Services Lieutenant should ensure that department personnel are familiar with the roles police personnel will play when the plan is implemented.

203.4 UPDATING OF MANUALS

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

Training

204.1 PURPOSE AND SCOPE

It is the policy of this department 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.

204.2 POLICY

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

204.3 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).

204.4 OBJECTIVES

The objectives of the Training Program are to:

- (a) Enhance the level of law enforcement service to the public.
- (b) Increase the technical expertise and overall effectiveness of our personnel.
- (c) Provide for continued professional development of department personnel.
- (d) Ensure compliance with POST rules and regulations concerning law enforcement training.

204.5 SUPPORT SERVICES LIEUTENANT

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

204.5.1 TRAINING RESTRICTION

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

204.6 TRAINING PLAN

A training plan has been developed and shall be maintained by the Support Services Lieutenant. It is the responsibility of the Support Services Lieutenant to review, update, and maintain the training plan on an annual basis. The plan will address the following:

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- (a) Legislative changes and case law
- (b) State mandated training
- (c) Critical issues training

204.7 TRAINING NEEDS ASSESSMENT

The Training 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.

204.8 TRAINING HOURS AND DAYS

- (a) **Training Assignments Scheduled for Less Than 40-Hours per Week** - A member who must travel beyond the administrative boundaries of Montclair and its sphere of influence for required training shall be compensated for a ten-hour work day if the training is scheduled for a minimum of eight hours for each day of training and the training occurs on a scheduled work day. If training occurs on a non-work day or within the administrative boundaries of Montclair and its sphere of influence, members will be compensated for the actual training hours.
- (b) **Training Assignments Scheduled for 40-Hours per Week (4/10 Plan)** - Training assignments held are ten-hour days for required training held outside of the city, eight-hour days when held inside the City. Training that is 40 hours or more in length, or voluntary training, are considered five eight-hour days. For training days that occur on regularly scheduled days off, the member will be paid overtime for the actual hours of the class, less a one-hour lunch break.
 - 1. Should assignment to training result in scheduling conflicts that cause accumulation of less than 40 hours within a work week, it will be necessary for the member to use vacation, holiday, or other accumulated time off or to obtain prior authorization from their supervisor for additional work assignments. In the event there is a conflict between this policy and procedures manual and the MOU, the MOU will take precedence over this policy.
- (c) **Training Assignments Scheduled for 40-Hours per Week (3/12 Plan)** - Pending the publication of a City policy.

204.9 TRAINING PROCEDURES

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by a supervisor or the Training Manager. Excused absences from mandatory training should be limited to the following:
 - 1. Court appearances
 - 2. Sick leave

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3. Physical limitations preventing the employee's participation.
 4. Emergency situations
- (b) When an employee is unable to attend scheduled training, that employee shall:
1. Notify the Watch Commander or the training manager as soon as possible but no later than one hour prior to the start of training.
 2. When notified, the Watch Commander shall notify the Training Manager of the absence without unnecessary delay.
 3. Make arrangements through his/her supervisor and the Training Manager to attend the required training on an alternate date.

204.10 TRAVEL TIME COMPENSATION

The Fair Labor Standards Act (FLSA) outlines the minimum levels for compensable overtime when there is no specific Memorandum of Understanding (MOU) addressing the issue. The following guidelines apply to travel time compensation:

204.10.1 ONE-DAY ASSIGNMENTS

For all training/meetings attended outside the City that do not require an overnight stay, time used for travel between cities is counted as "hours worked."

204.10.2 OVERNIGHT STAY

The time spent traveling to a location outside the City is "hours worked" when the time coincides with the member's regular hours.

Travel during hours when the member is not normally scheduled to work or when the member requests to drive instead of flying is not considered to be "hours worked."

If more than one member is attending the same training/meeting, traveling together in an automobile, the driver shall be compensated for travel time. The passenger shall be compensated under the previous paragraphs.

204.11 TRAINING EXPENSE REIMBURSEMENT

Training expenses will be reimbursed pursuant to the City of Montclair Travel and Conference/Training Policy.

204.11.1 MILEAGE

Mileage for training or travel time is reimbursed from the Department to the training site or from a member's home to the training site, whichever is closer.

204.11.2 PROOF OF AUTOMOBILE INSURANCE

Proof of automobile insurance valid for the dates of travel must be provided to the Support Services Lieutenant within three working days from the end of the conference/training in order to receive

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mileage reimbursement. Members may elect to provide a copy of their insurance information to be retained on file for future mileage reimbursement.

204.11.3 EXPENSE RECEIPTS

Expense receipts must be submitted to the Support Services Lieutenant within three working days from the end of the conference/training in order to receive reimbursement.

204.11.4 TRAINING CERTIFICATES

Upon returning from a training class members are required to show the Support Services Lieutenant a certificate of completion from the course.

204.12 TRAINING PROCEDURE (PEACE OFFICER)

The first months of employment will encompass a training period which may include the basic training academy and field training program.

Telephone Communications

205.1 PURPOSE AND SCOPE

The purpose of this section is to provide guidelines and procedures for professional communication using department telephones.

205.2 DEPARTMENT TELEPHONE AND VOICEMAIL

It is recognized there are circumstances where the use of departmental telephones for personal use is an acceptable practice. This should, however, be considered as an exception rather than the rule. Abuse of this privilege is not acceptable. For purposes of this section, "abuse" shall be defined as: Extended or frequent conversations while on-duty; conducting outside employment/work from department telephones while on-duty; use of department telephones for personal matters when other means are reasonably available; and failure to repay the City for personal toll calls.

Each member will be issued a voicemail extension. Members shall check their voicemail extension at the beginning and toward the end of their shift. Each member shall diligently return phone calls by the end of their shift.

205.2.1 CELLULAR TELEPHONES

It is recognized there are circumstances where the use of departmental telephones for personal use is an acceptable practice. This should, however, be considered as an exception rather than the rule. Abuse of this privilege is not acceptable. For purposes of this section, "abuse" shall be defined as: Extended or frequent conversations while on-duty; conducting outside employment/work from department telephones while on-duty; use of department cellular telephones for personal matters when other means are reasonably available; and failure to repay the City for personal toll calls.

Members shall adhere to City policy and state law regarding cell phone use and text messaging while driving when operating City vehicles.

While driving City vehicles, members shall refrain from using personal or City-provided cell phones unless the use of such cell phones is in conjunction with hands-free technology. Calls to cell phones not equipped with hands-free technology shall only be answered after a member pulls to the side of the road and stops safely, or at any time when the member is not operating a moving motor vehicle and can safely answer calls.

A safety member may use a City-provided cell phone without hands-free technology while driving a City vehicle during a verifiable emergency that affects the public welfare.

While driving personal vehicles, members shall refrain from using City-provided cell phones unless the use of such cell phones is in conjunction with hands-free technology.

A member operating a personal vehicle and at the same time using a personal cell phone without hands-free technology is in violation of his/her constitutional obligation to abide by federal, state, and local laws.

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Telephone Communications

Text messaging on personal cell phones during work time, while not prohibited, is discouraged and should be limited to break times. Any member found to be excessively text messaging or neglecting their job duties due to text messaging during work time will be prohibited from using their personal cell phone during work hours.

205.3 TELEPHONE ETIQUETTE

For non-emergency telephone calls received through the business lines, the appropriate greeting of "Good morning (afternoon, evening), Montclair Police Department, may I help you?" is the standard. Once screened and directed to an extension, the greeting of the call recipient should be by title and name of the person at that extension.

It is the goal of the Department to ensure that calls are handled by the appropriate person in a timely manner. In order to provide efficient customer service, calls should be handled with the fewest number of transfers possible. Front office personnel should sufficiently screen calls so as to ascertain if the person or extension asked for is the appropriate person to handle the call. Where there is a secondary screening source (e.g., secretary), there is not the need for a detailed screening by the front office prior to transfer.

Calls requesting the Watch Commander should always be screened prior to transferring the call in order to ascertain if the Watch Commander is the appropriate person to handle the call. If the status monitor indicates the Watch Commander is in the station, the call should be transferred. If the status monitor indicates the Watch Commander is out of the station, the caller should be advised of this information and be instructed to leave a message for him/her upon transfer. The Watch Commander should then be advised via Dispatch to check the Watch Commander voicemail. The Watch Commander should return the call promptly.

After transferring a call to an on-duty patrol member's voicemail, the patrol member should be advised via Dispatch or an MDC message to check his/her voicemail.

Electronic Mail and Mailboxes

206.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the Department's internet and electronic mail (e-mail) systems by members of this department. Internet and e-mail are communication tools available to members to enhance efficiency in the performance of job duties and are to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act).

Internet sites accessed and e-mail messages transmitted over the internet should only be those that involve city business or contain information essential to performance of the member's duties.

206.2 E-MAIL RIGHT OF PRIVACY

All e-mail 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 e-mail system or that is stored on any department system.

The e-mail system is not a confidential system since all communications transmitted on, to or from the system are the property of the Department. Therefore, the e-mail 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 e-mail. Employees using the Department's e-mail system shall have no expectation of privacy concerning communications utilizing the system.

Employees should not use personal accounts to exchange e-mail or other information that is related to the official business of the Department. Members shall abide by the City *"Notification of Employee's Privacy Rights Related to City Policies Regarding Telecommunications, Internet, Email Services Provided by the City of Montclair"* policy.

206.3 PROHIBITED USE OF E-MAIL

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, and harassing or any other inappropriate messages on the e-mail system is prohibited and will not be tolerated.

E-mail messages addressed to the entire department should only be used for official business related items that are of particular interest to all users.

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 prevents the misuse of an individual's e-mail, name, and/or password by others.

Non-management members are prohibited from checking their department e-mail while not on-duty.

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Electronic Mail and Mailboxes

206.4 MANAGEMENT OF E-MAIL

Members shall check their e-mail at least once during every shift they are on-duty. Because the e-mail system is not designed for long-term retention of messages, e-mail that the employee desires to save or becomes part of an official record should be printed. Users of e-mail are solely responsible for the management of their mailboxes.

206.5 MAILBOXES

Members shall keep their mailbox locked at all times when not in use and shall check their mailbox at least once during every shift they are on-duty.

206.6 MAIL

Members shall not use the Police Department's address as their address for personal business.

Administrative Communications

207.1 PURPOSE AND SCOPE

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

207.2 MEMORANDUMS

Memorandums may be issued to announce and document promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status. Memorandums to "All Personnel" are only to be issued from staff members. Sergeants may issue mourning band memorandums in accordance with the criteria established in this manual.

207.3 CORRESPONDENCE

Department letterhead shall be used only for official police business. Correspondence on department letterhead sent by members shall be in relation to their job duties.

Correspondence expressing the opinions, views, or policies of the Department may only be issued by staff members.

The City's response to a prospective employer's request for information on a current or former member can be the basis for both criminal and tort liability. To avoid potential legal issues, responses to requests for such information shall be centralized in the Personnel Division of the Administrative Services Department of the City. Members who receive calls or letters requesting reference checks must refer them, without comment, to the Personnel Division for handling. Members shall not provide current or former members with letters of reference.

Personnel and/or Police Department staff may respond to peace officer reference checks if they are submitted in compliance with Government Code § 1031.1.

207.3.1 BUSINESS CARDS

Only Department issued business cards in the approved format may be distributed by members.

Authorized members released from training will be issued personalized business cards.

207.4 SURVEYS

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

CLETS and Related Systems Access/Security

208.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that members of the Montclair Police Department are familiar with the laws and policies surrounding the use of the California Law Enforcement Telecommunications System (CLETS) and other related systems.

208.2 PROCEDURES

Members of the Montclair Police Department will be provided with varying levels of access to the California Law Enforcement Telecommunications System (CLETS), National Law Enforcement Telecommunications System (NLETS), National Crime Information Center (NCIC) system, Cal Photo system, Cal Gang, COPLINK, and other law enforcement data bases.

208.2.1 ACCESS TO SYSTEMS

Access to these data bases and systems is strictly governed by statutory law and the rules and regulations of those agencies that administer the systems. Access is defined as the ability to hear or view any information provided through the CLETS. The Montclair Police Department and its members are mandated to adhere to the rules and regulations as a condition of accessing the systems.

208.3 RECORDS SUPERVISOR RESPONSIBILITY

The Records Supervisor shall serve as Agency Terminal Coordinator (ATC) for the CLETS System and shall ensure that all training requirements and bi-annual recertification required by the Department of Justice (DOJ) are met.

208.4 ACCESS BY POLICE DEPARTMENT MEMBERS

Members of the Montclair Police Department shall not access any of the aforementioned computer systems, data bases, or information generated from those systems or data bases for other than the official performance of their duties as a member of the Montclair Police Department.

Members of the Montclair Police Department shall not release information generated from any of the aforementioned computer systems or data bases other than as authorized by statutory provisions of law and the established regulations for that system or data base.

208.5 STATION SECURITY

Visitors allowed into the secured area of the station shall be escorted at all times and be issued visitor badges to wear during their time in the station. To maintain DOJ security compliance and station security, past members shall be escorted when visiting the station. Any time a current member of this department sees someone within this department who they do not recognize and they are unescorted, the member shall confront the person as to their identity and purpose and shall not assume they have the right to be in the station.

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CLETS and Related Systems Access/Security

Past members who have left the organization under less than honorable conditions (e.g., terminated, resigned in lieu of termination, did not pass probation, or stress retirement) shall not be allowed in the secured (non-public) area of the Department.

In lieu of visitor badges, law enforcement personnel should be asked to display their departmental badge and have it visible while in the station.

Prisoners, arrestees, and suspects shall not be allowed to use the employee restrooms. In most cases, visitors and all persons in the building for interviews, reports, or ride-alongs will also be excluded from the employee restrooms. Should the need arise, such persons can use the public restrooms in the lobby.

City employees who have completed a background investigation and have been granted department access by the Chief of Police to specific areas of the building for the purpose of using the fitness center (north door entrance, hallway leading to locker rooms, locker rooms, and fitness center) may not use any department computer or view any department computer screens or confidential law enforcement information. Members witnessing or made aware of any violation of this policy shall immediately report it to a supervisor.

208.6 DOCUMENT AND RECORD SECURITY

When disposing of paper records that may be considered confidential, sensitive, or contain personal information, those records shall be shredded. Such records shall not be placed in trash or recycle containers. Other such records contained on electronic medium shall be destroyed by erasing or damaging the medium to the extent that the data is not readable.

Service Requirements

209.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper supervision is available for all shifts.

209.2 MINIMUM STAFFING LEVELS

There is no minimum staffing level for patrol officers. This decision is left to the Field Services Lieutenant and the Watch Commander. Minimum staffing level for field supervisors shall be one sergeant or a designated officer in charge (OIC) of the shift.

Minimum staffing level for other divisions shall be determined by the respective division commander or supervisor.

209.2.1 LIMITATION ON HOURS WORKED

Absent emergency operations, members should not work more than: 16 hours in one day (24 hour) period or 30 hours in any 2 day (48 hour) period or 84 hours in any 7 day (168 hour) period. Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines. Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime, and any other work assignments.

209.2.2 REPORTING FOR DUTY

Members shall report for duty at the time, place, and in the attire with the equipment specified by department procedures or supervisory direction.

Members shall not absent themselves from duty without proper leave. Members shall be punctual in reporting for duty, special assignments, court appearances, and in meeting appointments. Members shall report going off-duty in person at the Police Department at the end of their shift, unless otherwise authorized by a superior.

209.3 SICK LEAVE REPORTING

Members accrue annual sick leave. Sick leave shall not be considered a benefit that can be used at the member's discretion, but shall only be allowed only in the following cases:

- (a) Actual sickness or disability of the member
- (b) Medical and dental appointments
- (c) Illness of a person in the member's immediate family as defined in the applicable MOU.

Sick leave is not considered discretionary leave time. Abuse of sick leave will result in discipline.

209.3.1 NOTIFICATION

Members shall notify the dispatcher as soon as they are aware they will not be able to report to work due to personal or family illness.

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209.3.2 EXTENDED ILLNESS

Members absent from duty due to illness in excess of three consecutive days may be required to furnish a statement from their physician upon returning to work. Nothing in this section precludes a supervisor from requiring a physician's statement if three or fewer sick days are taken. Further explanation is covered in the respective member's Memorandum of Understanding (MOU).

209.4 RESIDENCE AND CONTACT INFORMATION

Members of the Department are encouraged to live in the city of Montclair, but for court purposes, should not live at a distance that would exceed a one-hour reporting time.

Members shall have a telephone in working order and report this telephone number, as well as their home address, and change in marital status to the Department. Any changes of telephone number or home address shall be reported within 24 hours to the on-duty dispatcher and as soon as practicable, in writing, to the Administrative Specialist. A change of address/telephone form is available in debriefing for this purpose.

209.5 SHIFT ROTATION

Officers not on special assignment regularly rotate shifts and days off on a seniority basis. Seniority sign-up is generally limited to one year of consecutive assignment to any shift. Probationary members will be assigned at the discretion of the Field Services Lieutenant. Scheduling is at the discretion of the Department based on organizational needs. Shift rotations are generally done every four months on a first pay period Monday during the month.

Patrol sergeants rotate every trimester. The patrol sergeant rotation is based upon the number of sergeants the Department has allocated to patrol.

When the Department is staffed with five (5) patrol sergeants, the order of rotation is:

- Team 1 rotates to Team 5
- Team 2 rotates to Team 4
- Team 3 rotates to Team 1
- Team 4 rotates to Team 3
- Team 5 rotates to Team 2

When the Department is staffed with six (6) patrol sergeants, the order of rotation is:

- Team 1 rotates to Team 5
- Team 2 rotates to Team 4
- Team 3 rotates to Team 6
- Team 4 rotates to Team 3
- Team 5 rotates to Team 2
- Team 6 rotates to Team 1

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Dispatchers regularly rotate shifts every four months on the first pay period Monday of the month. Rotation is established by a seniority sign-up.

209.5.1 SPECIAL ASSIGNMENTS

Members are subject to assignment by a supervisor for extra duty at any time. Members off-duty shall report for duty in compliance with the directions given them at the time of notification.

Officers assigned to traffic enforcement, schools, the Montclair Plaza, SET, and other similar assignments may be assigned by the Watch Commander to supplement patrol units on calls for service should conditions warrant such action.

209.5.2 ASSIGNMENT CHANGE REQUESTS

A memorandum shall be completed to request a change in assignment and be forwarded to the member's supervisor.

209.5.3 RELIEF SHIFTS

Members of this department may work relief shifts on days or shifts when they are not otherwise scheduled to work the hours the relief shift covers. It is not permissible to exchange regular duty assignments with other members so that one person gets paid for relief work on days or shifts the member is regularly assigned.

In the event a member who is assigned to work a relief shift cannot work that particular shift, the member merely forfeits the shift and cannot take leave in order to receive compensation for the shift.

Sign-up rosters are posted in order to fill vacant shift assignments. This is done on a relief extra pay basis at the rates in the current Memorandum of Understanding (MOU). The sign-up roster, when filled, becomes a part of the regular schedule for the shift and date concerned.

Members are advised that upon signing a roster to cover a vacant shift, they become obligated to work that shift just as if it were their regularly scheduled shift. If, for any reason, they do not wish to work the shift for which they have signed up, it is their responsibility and obligation to arrange for a substitute member to sign the roster and work the shift in their place. To make this change, it is required that a supervisor provide authorization for the change by initialing next to the change on the roster.

209.6 KEEPING INFORMED

Members shall review and thoroughly understand department regulations, procedural manuals, and department directives. They shall have a working knowledge of City ordinances and state and federal laws. They shall obtain assistance from their superior in the interpretation of any section that is not clearly understood. They shall be well-informed concerning the regulations, procedures, and requirements of their specific assignments.

Patrol members shall review the Daily Dispatch Log at the beginning of each shift.

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All members shall check their mailbox, voicemail, e-mail, and schedule each shift they are on-duty. Members shall promptly return telephone calls.

Turnover books should be reviewed on each shift.

License to Carry a Firearm

210.1 PURPOSE AND SCOPE

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

210.2 LIMITED BUSINESS LICENSE TO CARRY A CONCEALED FIREARM

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

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

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

210.3 WRITTEN NOTICE FOR DENIAL OF LICENSE

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

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

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

210.3.1 ADDITIONAL REQUIREMENTS

If an application for a new license, renewal of a license, or revocation is denied based on a determination that the person is a disqualified person as provided by Penal Code § 26202, the Chief of Police or the authorized designee shall provide the person with the notice of determination as provided by Penal Code § 26202(d), Penal Code § 26205, or Penal Code § 26195(b)(3). The notice shall state the reason why the determination was made and inform the applicant that they

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may request a hearing from a court. The Department shall also provide the most recent California DOJ hearing request form to the applicant (Penal Code § 26206).

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

210.4 POLICY AVAILABILITY

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

Retiree Concealed Firearms

211.1 PURPOSE AND SCOPE

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

211.2 POLICY

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

211.3 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.

211.3.1 RETIRED OFFICER CCW ENDORSEMENT QUALIFICATION PROCEDURE

In order to fulfill the requirements of the qualification process for a "CCW Approved" endorsement, the requesting retiree shall submit to the Chief of Police:

- (a) A completed and signed Montclair Police Department "Retired Officer Petition for CCW Endorsement-California" form, and
- (b) A completed "Retiree Handgun Qualification Form" signed by a Department Approved Firearms Instructor attesting to the following:
 - 1. The firearm to be carried concealed is of good quality, in good condition, and can be carried safely by the retiree.
 - 2. The retiree has demonstrated proficiency in the safe handling of the firearm.
 - 3. The retiree has passed the Qualification Course of Fire as required on the form.

As used in this section, a "Department Approved Firearms Instructor" must meet at least one of the following criteria:

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- (a) A person currently employed by a California law enforcement agency as a Firearms Instructor or Rangemaster who has completed a Firearms Instructor Course certified by the State of California Commission on Peace Officer Standards and Training (POST).
- (b) A person currently employed by a law enforcement agency as a Firearms Instructor or Rangemaster for a law enforcement agency within the state in which the qualified retiree resides, who has completed a Firearms Instructor Course certified by the entity responsible for the regulation of peace officer training in that state.
- (c) A person certified by the National Rifle Association (NRA) as a Law Enforcement Instructor, Rangemaster, or Training Counselor who is currently employed in that capacity.

211.3.2 LEOSA IDENTIFICATION CARD FORMAT

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

If the Montclair 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.

211.3.3 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.

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211.4 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).

211.4.1 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 five years). If a CCW endorsement has been denied or revoked, the identification card shall be stamped "No CCW Privilege."

211.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

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

- (a) The retiree's previous agency is no longer providing law enforcement services or the relevant government body is dissolved.
- (b) This department is in possession of the retiree's complete personnel record or can verify the retiree's honorably retired status.
- (c) The retiree is in compliance with all of the requirements of this department for the issuance of a CCW Approved endorsement.

211.4.3 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).

211.5 FORMER OFFICER RESPONSIBILITIES

Any retired or former officer meeting the LEOSA eligibility requirements for issuance of a CCW must abide by all other requirements of this Policy, including the firearm to be qualified with and carried is registered to the applicant.

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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.

211.5.1 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.

211.5.2 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.

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

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

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

A CCW endorsement under Penal Code § 25470 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.

- (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,

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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 notify a member of Command Staff who should 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 Command Staff member 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.

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4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Command Staff member 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 Command Staff member may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

211.8 FIREARM QUALIFICATIONS

The Range Lieutenant 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 Range Lieutenant will maintain a record of the qualifications and weapons used.

Access to Areas of the Department

212.1 PURPOSE AND SCOPE

Police Department managers may authorize key card access into areas of the Department within their scope of responsibility, however the Chief of Police holds exclusive authorization as to which members have access into the evidence room and computer room.

The Senior Information Technology Specialist shall only generate or modify a key access card with appropriate authorization.

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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.

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

300.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

300.2 POLICY

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

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

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The Department 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.

Officers must also remain cognizant of the unique circumstances presented in the Temporary Holding Facility during a situation which may result in the use of force, including the lack of available tools and weapons not permitted into the Temporary Holding Facility per the Temporary Custody of Adults and Temporary Custody of Juveniles policies.

300.2.1 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.

300.2.2 DUTY TO INTERCEDE

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

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

300.2.3 FAILURE TO INTERCEDE

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

300.2.4 DUTY TO REPORT EXCESSIVE FORCE

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

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

300.3 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.

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

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

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, officers should consider actions that may increase officer safety and may decrease the need for using force:

- (a) Summoning additional resources that are able to respond in a reasonably timely manner.
- (b) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (c) Employing other tactics that do not unreasonably increase officer jeopardy.

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

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

300.3.2 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

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resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.3 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.
- (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.

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300.3.4 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.

300.3.5 RESTRICTIONS ON THE USE OF A CHOKE HOLD

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

300.3.6 ADDITIONAL RESTRICTIONS

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

300.3.7 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 Montclair Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

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

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

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

- (a) An officer may use deadly force to protect themselves or others from what the officer reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

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

Additionally, an officer should not use deadly force against a person whose actions are a threat solely to property.

An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

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

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

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)):

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- (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.

In addition to reporting requirements set forth by this policy, any use of force which occurs in the Temporary Holding Facility shall follow guidelines set forth in the Temporary Custody of Adults policy. This includes a copy of all reports generated regarding the use of force in the Temporary Holding Facility shall be submitted as soon as reasonable practicable to the appropriate supervisor and the Facility Manager. The Facility Manager will retain a record of these reports for inspection purposes (15 CCR 1044). See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATION TO SUPERVISORS

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

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a conducted energy device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

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

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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 Bureau Policy.

300.5.3 REPORT RESTRICTIONS

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

300.6 MEDICAL CONSIDERATIONS

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

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

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

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

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

See the Medical Aid and Response Policy for additional guidelines.

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300.7 SUPERVISOR RESPONSIBILITY

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

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

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

300.7.1 WATCH COMMANDER RESPONSIBILITY

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

300.8 USE OF FORCE COMPLAINTS

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

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300.9 TRAINING

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

300.9.1 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intercede.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).
- (g) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

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

300.9.2 STATE-SPECIFIC TRAINING REQUIREMENTS

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

300.10 POLICY REVIEW

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

300.11 POLICY AVAILABILITY

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

300.12 PUBLIC RECORDS REQUESTS

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

Use of Force Review

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Montclair Police Department to review the use of force by its employees.

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 Montclair 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

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 may, at the discretion of the Chief of Police, be placed in a temporary administrative assignment or on administrative leave pending an administrative review.

301.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

The Use of Force Review Board may also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

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

The Chief of Police will convene the Use of Force Review Board as necessary. It will be the responsibility of the Division Commander or supervisor of the involved employee to notify the Chief of Police of any incidents requiring board review. The involved employee's Division Commander or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

301.4.1 COMPOSITION OF THE BOARD

The Chief of Police should select three Use of Force Review Board members from the following, as appropriate:

- Lieutenant
- Sergeant
- A peer officer

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- A sworn peace officer from an outside law enforcement agency
- Department instructor for the type of weapon, device or technique used

The senior ranking command representative will serve as chairperson.

301.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges the decision not to file criminal charges, or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

Absent an express waiver from the employee, no more than two members of the board may ask questions of the involved employee (Government Code § 3303). Other members may provide questions to these members.

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.

Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

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 requires a majority vote of the board. 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.

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. The Chief of Police's final findings will be forwarded to the involved employee's Division Commander for review and appropriate action. If

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the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed in the Administration Division.

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 Montclair 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 Montclair 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

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

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

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

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

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

302.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

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.

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- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by emergency medical services, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

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 Support Services Lieutenant 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.

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 Montclair 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. The Watch Commander shall ensure any usage of control devices deemed to be Military Equipment per the Military Equipment Policy are properly documented.

303.4.2 TECHNICAL SERVICES RESPONSIBILITIES

The Technical Services Specialist 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 Technical Services Specialist or the designated instructor for a particular control device.

303.4.3 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

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Any damaged, inoperative or outdated control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Technical Services Specialist for disposition. A Supervisor's Report of Accident 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 or external ballistic vest. 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 by trained personnel for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Mobile Field Force Supervisor 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.

Duty Command shall be notified as soon as practicable after the deployment of tear gas.

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

Patrol officers shall carry either a TASER or OC spray, but shall have the other available in their patrol bag or police vehicle. Uniformed personnel carrying OC spray shall carry the device in an approved holder or holster on the equipment belt or external ballistic vest. 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. Non-sworn uniformed members may carry OC spray in a belt holster. Canisters involved in any type of malfunction or damage shall be turned in to Technical Services for exchange.

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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 discharge of a pepper projectile system shall be documented. As soon as practical, a supervisor shall be notified if the pepper projectile 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

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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 are distinctively painted orange.

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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 shall be properly secured in the vehicle. When loading 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.

303.10 TRAINING FOR CONTROL DEVICES

The Support Services Lieutenant 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.

303.12 MASS DEMONSTRATIONS AND CROWD CONTROL

The procedure of the Montclair Police Department in dealing with any emergency situation evolving from racial, political, or religious incidents is to enforce laws in a fair and impartial manner with bias toward no one. Members of this department shall not take sides on any issue, but shall act in a manner which will reflect their only interest is the enforcement of the law. They shall apply themselves fervently to protecting the rights and privileges of all citizens, regardless of racial origin, political ideology, religious beliefs, or disability.

303.12.1 OPERATIONS

The following are basic points of police responsibility that should be given consideration by members in charge of any police incident:

- (a) Preserve the peace
- (b) Protection of life and property
- (c) Aid and assistance to citizens
- (d) Prevention and detection of crime

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(e) Arrest of violators

In the event a situation arises involving what may be a major crowd control problem, the on-duty watch commander shall immediately assume responsibility for the activities of the entire organization and shall so act until relieved. Members are to go about their duties, exercising the same fervor, prudence, and caution as in any other situation. Members are to effect the arrest of law violators, regardless of the nature of the particular crime, nonviolently when possible. Members are authorized to exert that degree of force necessary to effect the arrest. Members are not required to subject themselves to unnecessary hazards and are authorized to protect themselves at all times.

303.13 LONG RANGE ACOUSTIC DEVICE (LRAD)

The Montclair Police Department shares a Long Range Acoustic Device (LRAD) with the cities of Ontario, Chino, and Upland. The device can be stored at any of those agencies.

Only Montclair officers who are trained in the use of the device shall be authorized to deploy the device.

If a participating agency needs the device for any reason and the device is located at the Montclair Police Department at the time of the request the Watch Commander shall release the device to the agency and make a notation on his/her Patrol Sergeant Shift Report.

Conducted Energy Device

304.1 PURPOSE AND SCOPE

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

304.2 POLICY

The CED is used in an attempt to control a violent or potentially violent individual. The appropriate use of such a device may result in fewer serious injuries to officers and suspects.

304.3 ISSUANCE AND CARRYING CEDS

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

The Range Lieutenant should keep a log of issued CED devices and the serial numbers of cartridges/magazines issued to members.

CEDs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the CED and cartridges/magazines that have been issued by the Department. Cartridges/magazines should not be used after the manufacturer's expiration date.

Uniformed officers who have been issued the CED shall wear the device in an approved holster.

Officers who carry the CED while in uniform shall carry it in a holster on the side opposite the duty weapon (Penal Code § 13660).

- (a) All CEDs shall be clearly distinguishable to differentiate them from the duty weapon and any other device.
- (b) For single-shot devices, whenever practicable, officers should carry an additional cartridge on their person when carrying the CED.
- (c) Officers should not hold a firearm and the CED at the same time.

Non-uniformed officers may secure the CED in a concealed, secure location in the driver's compartment of their vehicles.

304.3.1 USER RESPONSIBILITIES

Officers shall be responsible for ensuring that the issued CED is properly maintained and in good working order. This includes a function test and battery life monitoring, as required by the manufacturer, and should be completed prior to the beginning of the officer's shift.

CEDs that are damaged or inoperative, or cartridges/magazines that are expired or damaged, shall be returned to the Range Lieutenant for disposition. Officers shall submit documentation stating the reason for the return and how the CED or cartridge/magazine was damaged or became inoperative, if known.

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304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the CED should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the CED may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, activate any warning on the device, which may include display of the electrical arc, an audible warning, or the laser in a further attempt to gain compliance prior to the application of the CED. The laser should not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the CED in the related report.

304.5 USE OF THE CED

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

If sufficient personnel are available and can be safely assigned, an officer designated as lethal cover for any officer deploying a CED may be considered for officer safety.

304.5.1 APPLICATION OF THE CED

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

- (a) Is violent or is physically resisting.
- (b) Has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, themselves, or others.

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

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

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

- (a) Individuals who are known to be pregnant.

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- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals known to have been recently sprayed with a flammable chemical agent or who are otherwise known to be in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capicum (OC) spray.
- (f) Individuals whose position or activity is likely to result in collateral injury (e.g., falls from height, located in water, operating vehicles).

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

304.5.3 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, officers should attempt to target the back, lower center mass, and upper legs of the subject, and avoid intentionally targeting the head, neck, area of the heart, or genitals. If circumstances result in one or more probes inadvertently striking an area outside of the preferred target zones, the individual should be closely monitored until examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE CED

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

- (a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.
- (b) Whether the probes are making proper contact.
- (c) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (d) Whether verbal commands or other options or tactics may be more effective.

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

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CED. As soon as practicable, officers shall notify a supervisor any time the CED has been discharged. If needed for evidentiary purposes, the expended cartridge, along with any probes and wire, should

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be submitted into evidence (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

304.5.6 DANGEROUS ANIMALS

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

304.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEDs while off-duty.

Officers shall ensure that CEDs are secured while in their homes, vehicles, or any other area under their control, in a manner that will keep the device inaccessible to others.

304.6 DOCUMENTATION

Officers shall document all CED discharges in the related arrest/crime reports and the CED report forms. Photographs should be taken of any obvious probe impact or drive-stun application sites and attached to the CED report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, audible warning, laser activation, and arcing the device, other than for testing purposes, will also be documented on the report form. Data downloads from the CED after use on a subject should be done as soon as practicable using a department-approved process to preserve the data.

304.6.1 REPORTS

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

- (a) Identification of all personnel firing CEDs
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication, or other medical problems

304.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel or officers trained in probe removal and handling should remove CED probes from a person's body. Used CED probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by CED probes or who have been subjected to the electric discharge of the device, or who sustained direct exposure of the laser to the eyes shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

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- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The CED probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio/video recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CED (see the Medical Aid and Response Policy).

304.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the CED may be used. A supervisor should respond to all incidents where the CED was activated.

A supervisor should review each incident where a person has been exposed to a CED. The device's internal logs should be downloaded by a supervisor or Range Lieutenant and saved with the related arrest/crime report. The supervisor should arrange for photographs of probe sites to be taken and witnesses to be interviewed.

304.9 TRAINING

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

Proficiency training for personnel who have been issued CEDs should occur every year. A reassessment of an officer's knowledge and/or practical skills may be required at any time, if deemed appropriate by the Support Services Lieutenant. All training and proficiency for CEDs will be documented in the officer's training files.

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

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

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The Support Services Lieutenant is responsible for ensuring that all members who carry CEDs have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of CEDs during training could result in injuries and should not be mandatory for certification.

The Support Services Lieutenant should include the following training:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws until proficient to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes to the head, neck, area of the heart, and groin.
- (e) Scenario-based training, including virtual reality training when available.
- (f) Handcuffing a subject during the application of the CED and transitioning to other force options.
- (g) De-escalation techniques.
- (h) Restraint techniques that do not impair respiration following the application of the CED.
- (i) Proper use of cover and concealment during deployment of the CED for purposes of officer safety.
- (j) Proper tactics and techniques related to multiple applications of CEDs.

Officer-Involved Shootings and Deaths

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 another action of an officer.

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

305.2 INVESTIGATION RESPONSIBILITY

This department is responsible for oversight of investigations of officer-involved shootings.

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 JURISDICTION

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

305.4.1 MONTCLAIR POLICE DEPARTMENT OFFICER WITHIN THIS JURISDICTION

The Montclair Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation, and the administrative investigation. The criminal investigation of the officer-involved shooting should be conducted by the San Bernardino County Sheriff's Department.

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 Investigation and Prosecution 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.

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305.4.3 MONTCLAIR POLICE DEPARTMENT OFFICER IN ANOTHER JURISDICTION

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

305.4.4 INVESTIGATION RESPONSIBILITY MATRIX

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

	Criminal Investigation of Suspect(s)	Criminal Investigation of Officer(s)	Civil Investigation	Administrative Investigation
MPD Officer in this Jurisdiction	Sheriff's Department	Sheriff's Department	Command Staff Member or City Attorney	Montclair Command Staff
Allied Agency's Officer in this Jurisdiction	MPD Investigators	MPD Investigators	Involved Officer's Agency	Involved Officer's Agency
MPD Officer in Another Jurisdiction	Agency where incident occurred	Decision made by agency where incident occurred	Command Staff Member or City Attorney	Montclair Command Staff

305.5 THE INVESTIGATION PROCESS

The following procedures are guidelines used in the investigation of an officer-involved shooting:

305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved MPD 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 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 member of Command Staff.

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

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305.5.3 NOTIFICATIONS

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

- (a) Chief of Police
- (b) Duty Command Officer
- (c) San Bernardino County Sheriff's Department Special Investigations Unit
- (d) Liability Response Team
- (e) Psychological/Peer support personnel
- (f) San Bernardino County Coroner (if necessary)
- (g) Involved officer's agency representative (if requested)

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

305.5.4 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved MPD 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 MPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 - 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Watch Commander and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional MPD 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 MPD officer should be given an administrative order not to discuss the incident with other involved officers or MPD 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.

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305.5.5 NOTIFICATION TO DEPARTMENT OF JUSTICE

The California Department of Justice (DOJ) is required to investigate an officer-involved shooting resulting in the death of an unarmed civilian. Duty Command will coordinate notification of the DOJ in all incidents involving an officer-involved shooting resulting in the death of an unarmed civilian, including where it is undetermined if the civilian was unarmed.

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

305.5.6 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 - 1. Involved MPD 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-MPD 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 MPD officer. A licensed psychotherapist may also be provided to any other affected MPD 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 MPD 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.

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

305.6.1 REPORTS BY INVOLVED MPD OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved MPD 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 MPD 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 MPD officer of the right to consult with legal counsel prior to completing any such criminal report.

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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 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.

305.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Detective Bureau supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department 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 member of Command Staff.

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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 MPD officers to determine conformance with department policy. The investigation will be conducted by an assigned member of Command Staff 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).

- (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. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 - 5. The Command Staff member assigned to investigate shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.

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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 AUDIO AND VIDEO RECORDINGS

Any officer involved in an incident should be permitted to review available Mobile Audio Video (MAV) or other video or audio recordings prior to providing a recorded statement or completing reports.

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

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

305.9 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.

305.10 DEBRIEFING

Following an officer-involved shooting or death, the Montclair 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 Administration 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 non-sworn

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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 Command Staff 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, Public Information Officer, and Command Staff in the event of inquiries from the media.

The Department shall not subject any involved MPD officer to visits by the media (Government Code § 3303(e)). No involved MPD officer shall make any comment to the media unless they are authorized by the Chief of Police. 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 Montclair Police Department jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Field Services 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).

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306.1 PURPOSE AND SCOPE

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

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

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

306.2 POLICY

The Montclair Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

306.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

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

Any personally owned firearms must be registered to the employee and approved for use by the Chief of Police or his/her designee via a Montclair Police Department Weapon Authorization form prior to deployment. Any officer wanting to make a personally owned firearm purchase requiring Department authorization must submit and agree to the terms of a Montclair Police Department Firearm Purchase Letter Request and Agreement before such authorization is granted. The completed documentation will be maintained in the officer's personnel file and a copy by the Range Lieutenant.

306.3.1 HANDGUNS

All on-duty officers engaged in law enforcement or investigative duties shall carry a handgun on their person unless approval has been obtained from the Chief of Police or his/her designee exempting them from this requirement.

The authorized department-issued handgun is the Staccato P 9mm pistol.

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Should an officer decide to carry a handgun, other than one issued by the Department, the purchase and maintenance of the handgun shall be the responsibility of the officer.

If an officer has been issued a Department handgun and decides to carry a personally owned duty weapon as his/her primary duty weapon, the Department handgun will be returned to Department inventory within 10 days of qualification with the personally owned handgun. All firearms authorized for use shall be black or stainless in color unless specifically and expressly authorized by the Chief of Police or their designee.

The following additional handguns are approved for on-duty use by uniformed officers and officers assigned to non-uniformed or administrative assignments:

- Semi-automatic Handguns
 - Manufacturers: Staccato, Sig Sauer, Smith and Wesson, Glock, Beretta, H&K, Springfield, or similar quality, in standard or compact frame.
 - Caliber: 9mm, .40 Smith and Wesson, and .45 ACP. Handgun minimum capacity is 7 + 1.
- 1911/2011 Style Handguns
 - Completion of a Department approved 1911/2011 course, 1911/2011 style handguns may be carried.

306.3.2 AUTHORIZED SECONDARY HANDGUN

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

- (a) The handgun shall be in good working order and on the department list of approved secondary firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun shall be the responsibility of the member unless the handgun is provided by the Department.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall only be approved by the Authorized Firearms, Ammunition, and Other Weapons Policy.
- (f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

Secondary handguns shall meet the following requirements:

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- Colt, Smith and Wesson, or similar quality revolvers having a barrel length of no more than 6 inches
 - Caliber: Not less than 22LR and no more than .357 Magnum.
- Semi-automatic Handguns
 - Manufacturers: Staccato, Sig Sauer, Smith and Wesson, Glock, Beretta, H&K, Springfield, Colt, Kimber, Les Baer, Para Ordinance, Wilson Combat, STI, or similar quality.
 - Caliber: Not less than 22LR, or greater than .45 ACP.
- 1911/2011 Style Handguns
 - Completion of a Department approved 1911/2011 course, 1911/2011 style handguns may be carried.

306.3.3 AUTHORIZED OFF-DUTY FIREARMS

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

- (a) The member may use his/her duty firearm or may use a personally owned firearm that is carried and inspected in accordance with the requirements in this policy. A member carrying his/her duty firearm will be deemed to have complied with (c), (d) and (e) of this section. The purchase of the personally owned firearm shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (d) Members shall only carry department-authorized ammunition.
- (e) When armed, officers shall carry their Montclair Police Department identification cards under circumstances requiring possession of such identification.

Off-duty handguns shall meet the following requirements:

- Colt, Smith and Wesson, or similar quality revolvers having a barrel length of no more than 6 inches
 - Caliber: Not less than 22LR and no more than .357 Magnum.
- Semi-automatic Handguns
 - Manufacturers: Staccato, Sig Sauer, Smith and Wesson, Glock, Beretta, H&K, Springfield, Colt, Kimber, Les Baer, Para Ordinance, Wilson Combat, STI, or similar quality.
 - Caliber: Not less than 22LR, or greater than .45 ACP.

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- 1911/2011 Style Handguns
 - Completion of a Department approved 1911/2011 course, 1911/2011 style handguns may be carried.

306.3.4 PATROL RIFLES

The authorized department-issued patrol rifle is the Colt Monolithic 10.3", LE6945CQB, Nato5.56. Absent an exigency involving serious injury or loss of life, officers shall not deploy a patrol rifle until successful completion of a POST certified Patrol Rifle/Short-Barreled Rifle course.

Officers desiring to carry an authorized, but personally owned Patrol Rifle must be off probation and receive written approval from the Chief of Police or acting department head and agree to the conditions for possession and use listed on the Firearm Purchase Letter Request and Agreement form. Officers will only be permitted to purchase one Department authorized Patrol Rifle. No additional Patrol Rifles will be authorized except as permitted pursuant to the Firearms Purchase Letter Request and Agreement. Proof of the previous rifle's disposition shall be furnished to the Chief of Police and maintained in the officer's personnel file prior to any additional Patrol Rifle authorization request. Once approved, personally owned Patrol Rifles are subject to Department restrictions outlined in this policy.

Officers who possess a personally owned Patrol Rifle shall ensure all applicable laws are adhered to, including the loaning of the rifle pursuant to current law and safe storage of the rifle, pursuant to current law and this policy. Except as necessary for maintenance or repair, officers who have been authorized to carry a personally owned Patrol Rifle should have the rifle ready and available to deploy while on patrol duty. Exceptions for deployment during non-patrol assignments can be made by the officer's assigned supervisor.

The following personally owned patrol rifles are authorized for use:

- AR-15 styled rifle by Colt, Smith and Wesson, Daniel Defense, Geissele, Bushmaster, Springfield, FN, DPMS, Ruger, POF, Sig Sauer, or similar quality.
 - Caliber: 5.56 NATO.
 - All patrol rifles authorized for use on duty shall be black in color unless specifically and expressly authorized by the Chief of Police or their designee.
 - Shall have a tactical light and sling, dark gray or black in color, properly affixed to the rifle.
 - Written authorization shall be obtained before any accessories or modifications are made, consistent with the modification policy. Configuration of any accessories must allow for the rifle to be secured in the Department's patrol vehicle rifle locks, locking containers, or other secure rifle storage as the officer's assignment dictates, and shall be verified before authorization by the Range Lieutenant or their designee.

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

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- (a) Situations where the member reasonably anticipates an armed encounter.
- (b) When a member is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When a member reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When a member reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a supervisor.
- (g) When needed to euthanize an animal.

Officers are prohibited from removing any accessories (e.g., suppressor, light, optic) mounted to a department patrol rifle without prior approval of the Range Lieutenant or their designee. Department issued suppressors shall not be mounted on personally owned rifles.

When not deployed, the patrol rifle shall be properly secured in a locked weapons rack, lock box, locked personnel locker, or in a locked trunk of a Department vehicle when authorized by a supervisor.

306.3.5 AMMUNITION

Members shall carry only department-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity during the Department scheduled duty ammunition firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Range Lieutenant or his/her designee when needed, in accordance with established policy.

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

306.4 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

306.4.1 REPAIRS OR MODIFICATIONS

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

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Certain modifications may be authorized. Such modifications or repair must be authorized in advance by the Range Lieutenant. Members are prohibited from modifying Department or personally owned firearms carried on-duty without the authorization of the Chief of Police or his/her designee. The internal

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components of the firearm shall not be modified, machined, or polished from the original factory condition, unless such modification is recommended or required by a certified armorer or gunsmith to facilitate a repair. Replacement of internal components with original equipment produced by the manufacturer due to normal usage wear is not considered a modification. Magazines carried on-duty for personally owned firearms shall be original equipment produced by the handgun manufacturer or their designated manufacturer and may not be modified from the original factory condition. Under certain circumstances, magazines produced by another manufacturer may be authorized by the Chief of Police or his/her designee. Repairs must be authorized in advance by the Range Lieutenant or his/her designee. Modifications must be authorized in advance by the Chief of Police or his/her designee.

306.4.2 HOLSTERS

Only department-approved holsters shall be used and worn by officers. Officers shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun. Personally owned duty holsters must be specific for the firearm and secure the firearm with positive retention (no friction holsters). Personally owned duty holsters must be approved by the Range Lieutenant. Personally owned secondary and off-duty holsters shall be specific for the firearm and shall sufficiently retain the firearm to prevent loss of control while wearing.

306.4.3 TACTICAL LIGHTS

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

306.4.4 LASER SIGHTS

Laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Range Lieutenant or his/her designee. Any approved laser sight shall only be installed in strict accordance with manufacturer specifications. Once approved laser sights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

Except in an approved training situation, a member may only sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

306.4.5 OPTIONAL OPTICS FOR HANDGUNS AND PATROL RIFLES

The Montclair Police Department authorizes the use and deployment of electro-optical reflex sights for handguns, and electro-optical reflex sights, with or without magnifiers, prismatic and Low Power Variable (LPVO's) for patrol rifles. Requests for authorization of an optical sight will be made pursuant to the Department's modification policy. The officer shall provide their own firearm capable of accommodating the optic, and their own appropriate holster, backup iron sights, lights, or slings, depending on the type of firearm which will not be supplied by the department. "Dove

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Tail" mounts are not authorized for these devices. Officers must pass a Department qualification course prior to carrying an approved optical sight on their duty and off duty firearms.

Handguns:

- **Requirements for Electro-Optical Sights (Red dot or "Reflex" Holographic):**
 - Optic shall be from a quality manufacturer, such as Aimpoint, Holosun, Trijicon, Leupold, or similar; and approved by the Chief of Police or his/her designee
 - Backup iron sights to co-witness with the electro-optical sight
 - Reticle must be a minimum of 2 MOA
 - Compatible retention holster
 - Optic finish for primary duty weapons must be black or dark gray
 - All accompanying equipment will be installed and/or verified by the Firearms Instructor, and inspected for approval by the Range Lieutenant

Patrol Rifles:

- **Requirements for Electro-Optical Sight (Red dot or "Reflex" Holographic):**
 - Optic (including a magnifier if desired) shall be from a quality manufacturer, such as Aimpoint, Holosun, Trijicon, Leupold, or similar; and approved by the Chief of Police or his/her designee
 - The magnifier shall have a maximum magnification of 6x, and the dot/holographic sight must co-witness.
 - Backup iron sights to co-witness with the electro-optical sight, or mounted appropriately in an off-set position
 - Optic finish for primary duty weapons must be black or dark gray
 - All accompanying equipment will be installed and/or verified by the Firearms Instructor, and inspected for approval by the Range Lieutenant
- **Requirements for Low Power Variable Optic (LPVO) or Prismatic Optics:**
 - Optic shall be from a quality manufacturer, such as Aimpoint, Holosun, Trijicon, Leupold, or similar; and approved by the Chief of Police or his/her designee
 - Variable or fixed magnification, with a maximum magnification of 8x (1x-8x)
 - Etched reticle which must be visible when the optic is unpowered
 - Backup iron sights or an appropriately mounted backup sight with no magnification
 - Optic finish for primary duty weapons must be black or dark gray
 - All accompanying equipment will be installed and/or verified by the Firearms Instructor, and inspected for approval by the Range Lieutenant

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306.5 SAFE HANDLING, INSPECTION AND STORAGE

Members shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Firearms Instructor. Members shall not dry fire or practice quick draws except as instructed by the Firearms Instructor or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the rear Department parking lot and outside of the vehicle, using clearing barrels.
- (e) Less-lethal shotguns removed from vehicles or the equipment storage room shall be loaded and unloaded in the rear Department parking lot and outside of the vehicle, while pointed in a safe direction.
- (f) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
- (g) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (h) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Range Lieutenant or a Department Armorer approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Department Armorer will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

306.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. Less-lethal shotguns and rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms except for the less-lethal shotgun shall be cleared in a clearing barrel. Rifles deployed in the field shall be cleared while pointed in a safe direction prior to returning to the patrol vehicle.

Personally owned and Department-issued firearms may be safely stored in lockers at the end of the shift. Department-owned firearms shall be stored in the appropriate equipment storage room.

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Handguns may remain loaded when they are secured in an officer's locker. Department-owned rifles may remain secured in a patrol vehicle. If not stored in the vehicle, rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room. Less-lethal shotguns may remain secured in a patrol vehicle. When a Department vehicle is removed from service, all firearms shall be removed and stored in the appropriate equipment storage room.

306.5.2 STORAGE AT HOME

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

To provide for the safe storage of an officer's department-issued firearm while it is at the officer's home, the Montclair Police Department will issue a portable gun safe to every regular and reserve police officer. Officers shall secure their department issued weapon in the issued portable gun safe or other approved locking device while it is at their home.

306.5.3 ALCOHOL AND DRUGS

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

306.5.4 STORAGE IN VEHICLES

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

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

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

306.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete training at least once per trimester with their duty firearms. Members will qualify with off-duty and secondary firearms at least once every six months. Officers shall qualify with a patrol rifle at least twice per calendar year. Members authorized to carry a personally owned patrol rifle will be required to qualify with their patrol rifle and the Department's patrol rifle. Training and qualifications must be completed on an approved range course.

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At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

Command Staff members shall qualify at least three ranges per year. One of these ranges must be a Patrol Rifle qualification, and one must be a PPC qualification.

Probationary officers shall be required to attend range on a monthly basis.

The Firearms Instructor Supervisor shall keep accurate records of qualifications and training. If a member is unable to qualify due to injury, illness, duty status, or scheduling conflict, the member shall submit a memorandum to his/her immediate supervisor prior to the end of the required shooting period.

306.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any member fails to meet minimum standards for firearms training or qualification, that member shall notify their immediate supervisor as soon as practical and without unnecessary delay. This will include a memorandum completed by the Firearms Instructor, signed by both the member and instructor, and forwarded to the Range Sergeant.

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

- (a) Attend the next scheduled range and qualify with the firearm.
- (b) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.
- (c) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (d) No range credit will be given for the following:
 - 1. Unauthorized range make-up.
 - 2. Failure to meet minimum standards or qualify after remedial training.

When a member fails to qualify with their firearm after receiving remediation training on a Proficiency Course course for two consecutive months, the Firearms Instructor will follow the same procedure under section (a) of this Policy, and the Range Sergeant will notify the Range Lieutenant. The lieutenant or his/her designee may develop a written action plan that will assist the member in achieving a successful qualification.

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

306.7 FIREARM DISCHARGE

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and

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Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, written reports shall be made as follows:

- (a) If on-duty at the time of the incident, the member shall file a written report with his/her Lieutenant or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
- (b) If off-duty at the time of the incident, the member shall file a written report or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

306.7.1 DESTRUCTION OF ANIMALS

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

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

306.7.2 INJURED ANIMALS

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

Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. With supervisor approval, abandoned injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made. Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1).

306.7.3 WARNING AND OTHER SHOTS

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

Warning shots should not be used.

306.8 FIREARMS INSTRUCTOR DUTIES

Range training sessions will be under the exclusive control of the Firearms Instructor. All members attending will follow the directions of the Firearms Instructor. The Firearms Instructor will maintain

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a roster of all members attending the range and will submit the roster to the Firearms Instructor Supervisor after each range date. Failure of any member to sign in with the Firearms Instructor Supervisor will result in non-qualification. At the end of every calendar year, the Firearms Instructor Supervisor will provide the completed annual training records to the Range Lieutenant. The Range Lieutenant will review and ensure retention of the Range Book per the Department's retention procedures.

The range shall remain operational and accessible to department members during hours established by the Department.

Firearms Instructors are responsible for conducting periodic inspections, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Firearms Instructor has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Range Lieutenant or his/her designee.

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

Firearms Instructors conducting POST Certified firearms instruction courses shall complete and submit to the Support Services Lieutenant the documentation of the training courses provided. The Support Services Lieutenant shall ensure the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Department, a list of each member who completed the training.

306.9 FLYING WHILE ARMED

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

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their Montclair Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) The Montclair Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Montclair Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.

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- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

306.10 CARRYING FIREARMS OUT OF STATE

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

- (a) The officer shall carry his/her Montclair Police Department identification card whenever carrying such firearm.
- (b) The officer is not the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

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

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

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 POLICY

It is the policy of this department to balance the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

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307.3 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).

307.3.1 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.

307.3.2 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

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present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

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

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.

307.3.3 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.

307.4 PURSUIT UNITS

When involved in a pursuit, unmarked police department emergency vehicles should be replaced by marked emergency vehicles whenever practicable

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Vehicle pursuits should be limited to three vehicles (two units and a supervisor); however, the number of units involved may vary with the circumstances.

An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it reasonably appears that the number of officers involved may be insufficient to safely arrest the suspects. All other officers should stay out of the pursuit, but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

307.4.1 MOTORCYCLE OFFICERS

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

307.4.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Officers operating vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

307.4.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless the officer is unable to remain reasonably close to the suspect's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspects without unreasonable danger to any person.

The primary unit should notify the 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.

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307.4.4 SECONDARY UNIT RESPONSIBILITIES

The second officer in the pursuit will be designated as the secondary unit and is responsible for:

- (a) Immediately notifying the dispatcher of entry into the pursuit.
- (b) Remaining a safe distance behind the primary unit unless directed to assume the role of primary pursuit vehicle or if the primary pursuit vehicle is unable to continue the pursuit.
- (c) Broadcasting the progress, updating known or critical information, and providing changes in the pursuit, unless the situation indicates otherwise.
- (d) Identifying the need for additional resources or equipment as appropriate.
- (e) Serving as backup to the primary pursuing officer once the suspect has been stopped.

307.4.5 PURSUIT DRIVING

The decision to use specific driving tactics requires the same assessment of the factors the officer considered when determining whether to initiate and/or terminate a pursuit. The following are tactics for units involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
 - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
 - 2. Pursuing units should exercise due regard and caution when proceeding through controlled intersections.
- (c) As a general rule, officers should not pursue a vehicle driving left of center (wrong way) against traffic. In the event that the pursued vehicle does so, the following tactics should be considered:
 - 1. Requesting assistance from available air support.
 - 2. Maintain visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
 - 3. Request other units to observe exits available to the suspects.
- (d) Notify the California Highway Patrol (CHP) and/or other law enforcement agency if it appears that the pursuit may enter its jurisdiction.
- (e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit and with a clear understanding of the maneuver process between the involved units.

307.4.6 PURSUIT TRAILING

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or jurisdiction, that initiating unit may, with permission of a supervisor, trail the pursuit to the

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termination point in order to provide information and assistance for the arrest of the suspects and reporting the incident.

307.4.7 AIR SUPPORT ASSISTANCE

When available, air support assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, the unit should assume control over the pursuit. The primary and secondary ground units, or involved supervisor, will maintain operational control but should consider whether the participation of air support warrants the continued close proximity and/or involvement of ground units in the pursuit.

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

307.4.8 UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

The primary and secondary units should be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit.

307.5 SUPERVISORY CONTROL AND RESPONSIBILITIES

Available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department.

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.

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- (h) Ensuring that the Watch Commander is notified of the pursuit as soon as practicable.
- (i) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this department.
- (j) Controlling and managing Montclair Police Department units when a pursuit enters another jurisdiction.
- (k) Preparing a post-pursuit review and documentation of the pursuit.
 - 1. Supervisors should initiate follow up or additional review when appropriate.

307.5.1 WATCH COMMANDER RESPONSIBILITIES

Upon becoming aware that a pursuit has been initiated, the Watch Commander should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. Once notified, the Watch Commander has the final responsibility for the coordination, control, and termination of a vehicle pursuit and shall be in overall command.

The Watch Commander shall review all pertinent reports for content and forward to the Lieutenant.

307.6 DISPATCH

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or 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.

307.6.1 DISPATCH RESPONSIBILITIES

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

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved units and personnel.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notify the Watch Commander as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

307.6.2 LOSS OF PURSUED VEHICLE

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

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307.7 INTER-JURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

307.7.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

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

307.7.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit is responsible for conducting the pursuit. Units from this department 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 Montclair 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 City 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.

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In the event that a pursuit from another agency terminates within this jurisdiction, officers should provide appropriate assistance to officers from the allied agency including but not limited to scene control, coordination and completion of supplemental reports, and any other reasonable assistance requested or needed.

307.8 WHEN PURSUIT INTERVENTION IS AUTHORIZED

Whenever practicable, an 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.

307.8.1 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).

307.8.2 INTERVENTION STANDARDS

Any intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and subject to the policies guiding such use. Officers should consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

- (a) Blocking should only be used after giving consideration to the following:
 - 1. The technique should only be used by officers who have received training in the technique.
 - 2. The need to immediately stop the suspect vehicle or prevent it from leaving reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 - 3. It reasonably appears the technique will contain or prevent the pursuit.
- (b) The PIT should only be used after giving consideration to the following:
 - 1. The technique should only be used by officers who have received training in the technique, including speed restrictions.
 - 2. Supervisory approval should be obtained before using the technique.
 - 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.

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- (c) Ramming a fleeing vehicle should only be done after giving consideration to the following:
 - 1. Supervisory approval should be obtained before using the technique.
 - 2. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 - 3. It reasonably appears the technique will terminate or prevent the pursuit.
 - 4. Ramming may be used only under circumstances when deadly force would be authorized.
 - 5. Ramming may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.
- (d) Before attempting to box a suspect vehicle during a pursuit the following should be considered:
 - 1. The technique should only be used by officers who have received training in the technique.
 - 2. Supervisory approval should be obtained before using the technique.
 - 3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 - 4. It reasonably appears the technique will terminate or prevent the pursuit.
- (e) Tire deflation devices should only be used after considering the following:
 - 1. Tire deflation devices should only be used by officers who have received training in their use.
 - 2. Supervisory approval should be obtained before using tire deflation devices.
 - 3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
 - 4. It reasonably appears the use will terminate or prevent the pursuit.
 - 5. Tire deflation devices should not be used when the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, except in extraordinary circumstances.
 - 6. Due to the increased risk to officers deploying tire deflation devices, such deployment should be communicated to all involved personnel.
- (f) Roadblocks should only be used after considering the following:
 - 1. Roadblocks should only be used by officers who have received training in their use.
 - 2. Supervisory approval should be obtained before using the technique.

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3. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
4. It reasonably appears the technique will terminate or prevent the pursuit. Roadblocks may be used only under circumstances when deadly force would be authorized.
5. Roadblocks may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.

307.8.3 CAPTURE OF SUSPECTS

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to accomplish a legitimate law enforcement purpose.

Unless relieved by a supervisor, the primary pursuing officer should coordinate efforts to apprehend the suspects following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans for setting up perimeters or for containing and capturing the suspects.

307.9 REPORTING REQUIREMENTS

All appropriate reports should be completed to comply with applicable laws, policies, and procedures.

- (a) The primary officer should complete appropriate crime/arrest reports.
- (b) The Watch Commander shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary officer should complete as much of the required information on the form as is known and forward the report to the Watch Commander for review and distribution.
- (c) After first obtaining the available information, the involved supervisor or Watch Commander shall document in their Patrol Sergeant's Shift Report a summary of the incident. 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.

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- (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 information that a pursuit occurred, 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.

307.9.1 REGULAR AND PERIODIC PURSUIT TRAINING

The Support Services Lieutenant shall make available to all officers initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, Vehicle Code § 17004.7(d), and 11 CCR 1081, and no less than annual training addressing:

- (a) This policy.
- (b) The importance of vehicle safety and protecting the public.
- (c) The need to balance the known offense and the need for immediate capture against the risks to officers and others.

307.9.2 POLICY REVIEW

Officers of this department 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.

307.10 APPLICATION OF VEHICLE PURSUIT POLICY

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

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 Dispatch.

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

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

308.3.1 NUMBER OF UNITS ASSIGNED

Normally, only one unit should respond to an emergency call Code-3 unless the Watch Commander authorizes an additional unit(s).

308.4 INITIATING CODE 3 RESPONSE

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

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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 Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.

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

308.6 COMMUNICATIONS RESPONSIBILITIES

A dispatcher shall broadcast an officer's request for emergency assistance and shall then:

- (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

308.7 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, the Watch Commander shall verify the following:

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

The Watch Commander 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 Watch Commander's judgment, the circumstances require additional units to be assigned a Code-3 response, the Watch Commander may authorize additional units.

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

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

- (a) The type of call
- (b) The necessity of a timely response
- (c) Traffic and roadway conditions
- (d) 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 or Dispatch of the equipment failure so that another unit may be assigned to the emergency response.

308.8.1 POLICE ESCORTS

Members are prohibited from escorting any vehicle without permission of a supervisor. When serving as an escort of any vehicles, officers are prohibited from using the siren or driving illegally.

308.9 SAN BERNARDINO COUNTY 999 PROCEDURE

The purpose of this procedure is to clarify countywide response to situations involving an officer broadcasting a "999" (officer needs assistance urgent) on any radio channel. The following procedure will be used by all San Bernardino County agencies when responding to a "999" broadcast:

- (a) Officers should respond to a "999" call originating in their jurisdiction based on the specific policies of their department.
- (b) Upon monitoring or being informed of a "999" broadcast by another county agency, all adjacent agencies should send units to assist the agency making the broadcast. The Watch Commander or supervisor of all adjacent agencies should make a determination of the number of units that respond to a "999" call based on the following factors:
 - 1. Location of the officer making the broadcast and proximity to responding units
 - 2. Circumstances of the incident, if known
 - 3. Number of units available in the jurisdiction broadcasting the "999" at the time of the broadcast
 - 4. Number of units available in all other adjacent jurisdictions at the time of the broadcast
 - 5. Traffic conditions
 - 6. Activity levels and conditions in the local jurisdiction

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As soon as possible after a "999" broadcast is made, the Watch Commander or other supervisor of the agency making the broadcast should notify all adjacent agencies if additional units are needed or if units already responding need to continue to respond.

County agencies that monitor or become aware of a "999" broadcast by an agency that is not immediately adjacent to their jurisdiction should monitor the situation but should not send units to assist unless another compelling factor is present or the originating agency specifically requests that they do so.

Emergency Operations Plan

309.1 PURPOSE AND SCOPE

The emergency operations plan for law enforcement operations in the City is the effective utilization of regular, reserve, and auxiliary personnel and other resources to achieve law enforcement objectives. The potential for major emergencies exists and disasters (e.g., earthquakes, floods, fires) could occur within the Montclair area at any time. All employees of the City of Montclair are registered disaster service workers and as such, have functional responsibilities beyond normal duty hours.

309.1.1 OPERATIONAL CONCEPT

The following is the operational concept of the emergency operations plan:

- (a) Lifesaving operations shall begin immediately after the entire situation has been assessed.
- (b) Property protection will be secondary to saving of human lives.
- (c) Sufficient control of pedestrians and vehicles will be exercised to ensure a smooth flow of traffic to and onto designated dispersal routes.
- (d) Coordination of efforts should be attempted with neighboring jurisdictions.
- (e) Law enforcement personnel reporting to a jurisdiction for duty during a state of emergency may be placed under the operational control of the jurisdiction.

309.2 TASKS

The following are the tasks involved in the emergency operations plan:

- (a) If possible, the City should be surveyed for damage with results forwarded to the Emergency Operations Center. Patrol officers should conduct a windshield inspection of their assigned beat and report all damage (e.g., building collapse, power lines down, fires) to the dispatcher.
- (b) Effective liaison is to be established with allied agencies and the command post.
- (c) Dispersal traffic will be controlled and assisted as required.
- (d) Auxiliary law enforcement personnel will be called to duty as necessary.
- (e) Members may be assigned to duty on the basis of Emergency Alert Plans "A" and "B."

309.3 EMERGENCY ALERT "A" - EMERGENCY SITUATION REQUIRING MAXIMUM EFFORT OF BRIEF DURATION (24 HOURS OR LESS)

- (a) The ranking member on-duty at the time of origination of the emergency situation shall make the decision to and shall issue the order to place into effect Emergency Plan "A."

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- (b) Upon activation of this plan, the ranking member shall, after identifying the specific problems, go to the command post to supervise the assignment of personnel and issue directions as necessary.
- (c) The deployment of personnel shall follow the basic plan, with modifications as the ranking member deems necessary.
 - 1. On-duty field personnel will provide initial response to the direct problem unless otherwise assigned.
 - 2. All on-duty members shall be utilized prior to calling in off-duty members.
 - 3. Members due to report for duty on the next shift shall be called in from off-duty status first, unless there are others more readily available.
 - 4. Other shift members, detectives, and reserve officers shall then be called if additional assistance is necessary.
 - 5. Mutual-aid assistance may be utilized at any of the above stages, depending on the circumstances of the emergency.
 - 6. All members called in shall report to the command post for assignment, unless otherwise directed.
 - 7. A minimum beat plan, using marked units, should be maintained to handle other calls for service.
 - 8. Non-sworn members, unless specifically assigned differently, shall report for duty at their regular duty hours.

309.4 EMERGENCY PLAN "B" - MAXIMUM EFFORT FOR A SUSTAINED PERIOD

In the event of an emergency or situation requiring a maximum effort by members of the Department for sustained periods of time (more than 24 hours), the following procedures shall be followed:

- (a) Departmental operations will be conducted on a scheduled 12-hour work day, seven days per week, for the duration of the emergency or until otherwise ordered. Duty hours will be dictated by the event. An example of duty hours and assignments are:
 - 1. Platoon A 0600-1830 Hours
 - 2. Platoon B 1800-0630 Hours
 - 3. Platoon C Support Unit assigned as necessary
- (b) The on-duty shift must provide the initial police response. The supervisor of the shift will ensure that all members assigned to the platoon who would handle the incident on the basis of the above assigned hours report for duty immediately.
- (c) Assignment Roster
 - 1. Platoon A 0600 - 1830 Hours

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- (a) Commander - Lieutenant
 - (b) Sergeants - Team 1, 2, and 4
 - (c) Officers - Team 1, 2, and 4
 - (d) Plaza Officers
 - (e) Traffic Officers
 - (f) Dispatchers
 - (g) Police Services Specialists
- 2. Platoon B 1800 - 0630 Hours
 - (a) Commander - Lieutenant
 - (b) Sergeants - Team 3, and 5
 - (c) Officers - Team 3, 5, and 6
 - (d) School Resource Officers
 - (e) Dispatchers
 - (f) Police Services Specialists
- 3. Platoon C Time Assigned as Necessary
 - (a) Commander - Lieutenant
 - (b) Sergeants - Detective Bureau, IRNET Officer, and SET
 - (c) Officers - Detectives, SET, Technical Services,, and Reserve Officers
 - (d) Support Unit - Records Supervisor, Administrative Specialist, Administrative Aides, Community Service Officers, Evidence Clerk, and Cadets

309.5 RECALL POLICY

The purpose of the Recall Policy is to provide guidance for members in determining when a major incident has reached such proportion as to warrant their automatic return to the Police Department without benefit of formal recall.

It is likely that in some severe situations (e.g., earthquakes) normal lines of communication may be inoperable, and it may be impossible to formally contact all member who are needed to respond to and assist with the disaster.

It shall be the policy of the City of Montclair that when its members receive information via radio, television, or other means, that a severe disaster has occurred within the City, members shall attempt (repeatedly, if necessary) to contact their departments and/or supervisors in order to ascertain whether or not their assistance is needed.

In the event that contact is not possible within one hour through normal channels, members shall respond to their normal work stations and report for duty.

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Situations critical enough to activate the above policy include, but are not limited to:

- (a) An earthquake of 5.5 magnitude or greater, with the epicenter located within ten miles of the City of Montclair
- (b) A major fire in Montclair that has taxed all available City resources and has required the use of mutual aid from other cities
- (c) Major flooding that has required evacuation of 25-percent or more of the population
- (d) Major winds resulting in severe building damage and/or fires
- (e) Other reported major disaster situations resulting in a threat to life and property of 50 or more persons
- (f) Civil unrest or disobedience (rioting)
- (g) Terrorist attack
- (h) Plane crash or train derailment
- (i) Critical law enforcement incident

Search and Seizure

310.1 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 Montclair Police Department personnel to consider when dealing with search and seizure issues.

310.2 POLICY

It is the policy of the Montclair 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.

310.3 SEARCHES

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

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

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

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

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

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

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Search and Seizure

310.4 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.

310.5 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.

310.6 SEARCH WARRANT AND ARREST WARRANT SERVICE

Policies and procedures for service of search warrants and arrest warrants established by the Department are contained in the Search and Arrest Warrant Policies and Procedures Manual.

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The policies and procedures in the manual shall be adhered to in the service of search warrants and arrest warrants.

310.7 OPERATIONS PLAN

Upon completion of a search warrant operation, the operations plan shall be forwarded to the Support Services Lieutenant for retention. Operations plans are not to be attached with the crime report.

Temporary Custody of Juveniles

311.1 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 Montclair Police Department (34 USC § 11133).

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

311.1.1 DEFINITIONS

Definitions related to this policy include:

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for the juvenile's own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for the juvenile's protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person. Juveniles 11 years of age or younger are considered juvenile non-offenders even if they have committed an offense that would subject an adult to arrest.

Juvenile offender - A juvenile 12 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) (Welfare and Institutions Code § 602). It also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an officer or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1; 15 CCR 1150).

Safety checks - Direct, visual observation personally by a member of this department performed at random intervals within time frames prescribed in this policy to provide for the health and welfare of juveniles in temporary custody.

Secure custody - When a juvenile offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object (15 CCR 1146).

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.

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- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact that is more than brief or inadvertent.

Status offender - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender. This includes the habitually disobedient or truant juvenile under Welfare and Institutions Code § 601 and any juvenile suspected of an offense that would not subject an adult to arrest (e.g., fine-only offense).

311.2 POLICY

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

311.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions shall not be held at the Montclair Police Department:

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated except when approved by the Watch Commander. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).
- (e) Extremely violent or continuously violent

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

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

If the officer taking custody of the juvenile believes or learns 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).

311.3.1 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).

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

311.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Montclair 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 Montclair Police Department without authorization of the arresting officer's supervisor or the Watch Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult or transferred to a juvenile custody facility or to other authority as soon as practicable and in no event shall a juvenile be held beyond six hours from the time of the juvenile's entry into the Montclair Police Department (34 USC § 11133; Welfare and Institutions Code § 207.1).

311.4.1 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 Montclair Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders shall not be held in secure custody (34 USC § 11133; Welfare and Institutions Code § 206).

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination (Welfare and Institutions Code § 602.1).

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311.4.2 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).

311.4.3 CUSTODY OF JUVENILE OFFENDERS

Juvenile offenders should be held in non-secure custody while at the Montclair Police Department unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

Generally, a juvenile offender may be taken into custody when authorized by a court order or when there is probable cause to believe the juvenile has committed an offense that would subject an adult to arrest (Welfare and Institutions Code § 625).

A juvenile offender who is 14 years of age or older and taken into custody for committing or attempting to commit a felony with a firearm shall not be released and be transported to a juvenile facility (Welfare and Institutions Code § 625.3).

A juvenile offender suspected of committing murder, a sex offense described in Welfare and Institutions Code § 602(b) that may subject the juvenile to criminal jurisdiction under Welfare and Institutions Code § 707, or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

- (a) Released upon warning or citation.
- (b) Released to a parent or other responsible adult after processing at the Department.
- (c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.
- (d) Transported to the juvenile offender's home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

In determining which disposition is appropriate, the investigating officer or supervisor shall prefer the alternative that least restricts the juvenile's freedom of movement, provided that alternative is compatible with the best interests of the juvenile and the community (Welfare and Institutions Code § 626).

Whenever a juvenile offender under the age of 14 is taken into custody, the officer should take reasonable steps to verify and document the child's ability to differentiate between right and wrong, particularly in relation to the alleged offense (Penal Code § 26).

311.4.4 JUVENILE DETENTION ROOM

Juveniles held in secure or non-secure custody may be temporarily detained in the juvenile detention room adjacent to debriefing. The restroom door in the juvenile detention room shall

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remain closed and locked when not in use by an arrestee. The restroom door is designed to be opened from the inside regardless of the position of the locking mechanism. The outer locking mechanism is controlled by a key. The key for the restroom shall be stored on a wall-hook in the debriefing room.

Juveniles shall not be confined in the restroom. Juveniles shall not be allowed to enter or use the restroom outside the presence of a department member. The member shall unlock the door to allow access into the restroom and shall maintain constant visual observation of the juvenile while in the restroom. Arrestees shall not be allowed to hold or otherwise possess the key. A spare key is stored in the lock box in the Watch Commander's office.

311.5 ADVISEMENTS

Officers shall take immediate steps to notify the juvenile's parent, guardian, or a responsible relative that the juvenile is in custody, the location where the juvenile is being held, and the intended disposition (Welfare and Institutions Code § 627).

Whenever a juvenile is taken into temporary custody, the juvenile shall be given the *Miranda* rights advisement regardless of whether questioning is intended. This does not apply to juvenile non-offenders taken into temporary custody for their safety or welfare (Welfare and Institutions Code § 625).

Anytime a juvenile offender is placed in secure custody, the juvenile offender shall be informed of the purpose of the secure custody, the length of time the secure custody is expected to last, and of the maximum six-hour limitation (Welfare and Institutions Code § 207.1).

Juveniles taken into custody for an offense shall immediately be advised (or at least within one hour from being taken into custody, if possible) that they may make three telephone calls: one call completed to their parent or guardian; one to a responsible relative or their employer; and another call completed to an attorney. The calls shall be at no expense to the juvenile when completed to telephone numbers within the local calling area. Juveniles should be asked whether they are a caregiver and provided two more phone calls in the same manner as provided to adults in the Temporary Custody of Adults Policy (Welfare and Institutions Code § 627; Penal Code § 851.5).

311.6 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 Montclair 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).

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- (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.

311.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133; Welfare and Institutions Code § 207.1; Welfare and Institutions Code § 208; 15 CCR 1144). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Montclair 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).

311.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Montclair 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 Montclair Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Montclair Police Department more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal safety checks and significant incidents/activities shall be noted on the log.
- (d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
 - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
 - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).
- (f) Juveniles shall be provided sanitary napkins, panty liners, and tampons as requested (15 CCR 1143).

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- (g) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).
- (h) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).
- (i) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (j) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).
- (k) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).
- (l) Blankets shall be provided as reasonably necessary (15 CCR 1143).
 - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (m) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.
- (n) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (o) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.
- (p) Juveniles shall have access to language services (15 CCR 1143).
- (q) Juveniles shall have access to disability services (15 CCR 1143).
- (r) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse (15 CCR 1142).

While held in temporary custody, juveniles shall be informed in writing of what is available to them pursuant to 15 CCR 1143 and it shall be posted in at least one conspicuous place to which they have access (15 CCR 1143).

311.9 RELIGIOUS ACCOMMODATION

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

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

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

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

311.11 PERSONAL PROPERTY

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

311.12 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 themselves or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to themselves or others include the following (15 CCR 1145):

- (a) Age, maturity, and delinquent history
- (b) Severity of offense for which the juvenile was taken into custody
- (c) The juvenile offender's behavior
- (d) Availability of staff to provide adequate supervision or protection of the juvenile offender
- (e) Age, type, and number of other individuals in custody at the facility

Members of this department shall not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option (15 CCR 1145).

When practicable and when no locked enclosure is available, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object (15 CCR 1148).

Juveniles shall not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter (15 CCR 1148). Supervisor approval should be documented.

The decision for securing a minor to a stationary object for longer than 60 minutes and every 30 minutes thereafter shall be based upon the best interests of the juvenile offender (15 CCR 1148).

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311.12.1 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 the juvenile's well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
 - 3. Requests or concerns of the juvenile should be logged.
- (e) Juveniles of different genders shall not be placed in the same locked room (15 CCR 1147).
- (f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

311.13 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE

The Facility Manager will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Montclair Police Department (15 CCR 1142; 15 CCR 1047). In the event of a suicide attempt, death, or serious injury of a juvenile in the Temporary Holding Facility, the Watch Commander and Facility Manager shall ensure the following procedures are completed:

- (a) Immediate notification of the on-duty supervisor, Chief of Police, and Investigation Division Supervisor.
- (b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the City attorney.
- (e) Notification to the coroner.
- (f) Notification of the juvenile court.
- (g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to

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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.

Upon receipt of a report of death of a minor from the Facility Administrator, the BSCC may, within 30 calendar days, inspect and evaluate the Temporary Holding Facility pursuant to the provisions of 15 CCR 1046. Any inquiry made by the BSCC shall be limited to the standards and requirements set forth in the applicable California Code of Regulations.

311.14 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 (Welfare and Institutions Code § 625.6).

Threats, physical harm, deception, or psychologically manipulative interrogation tactics shall not be used by an officer during a custodial interrogation of a juvenile (Welfare and Institutions Code § 625.7).

The requirements to consult with legal counsel or to refrain from the use of prohibited interrogation techniques do not apply when (Welfare and Institutions Code § 625.6; Welfare and Institutions Code § 625.7):

- (a) Information is necessary to protect life or property from an imminent threat.
 - 1. The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

311.14.1 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 include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

This recording is not mandatory when (Penal Code § 859.5):

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

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- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.
- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking, and are not an interrogation.
- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction over the individual, or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institutions Code § 626.8).

311.15 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting officer's supervisor, or in the supervisor's absence, the Watch Commander.

Any juvenile 14 years of age or older who is taken into custody for a felony, or any juvenile whose acts amount to a sex crime, shall be booked, fingerprinted, and photographed.

For all other acts defined as crimes, juveniles may be booked, fingerprinted, or photographed upon the approval from the Watch Commander or the Detective Bureau supervisor, giving due consideration to the following:

- (a) The gravity of the offense
- (b) The past record of the offender
- (c) The age of the offender

311.16 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.

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.

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311.17 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

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

311.18 TRAINING

Department members should be trained on and familiar with this policy and any supplemental procedures.

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312.1 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 Montclair Police Department members as required by law (Penal Code § 368.6).

The Montclair 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).

312.2 POLICY

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

312.2.1 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).

312.2.2 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)).

312.3 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

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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).
 - 2. Protocols for arrest warrants and arrests for senior and disability victimization for matters other than domestic violence and consistent with the requirements of Penal Code § 368.6(c)(9)(B) that include the following:
 - (a) In the case of a senior and disability victimization committed in an officer's presence, including but not limited to a violation of a relevant protective order, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
 - (b) In the case of a felony not committed in an officer's presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
 - (c) In the case of a misdemeanor not committed in the officer's presence, including but not limited to misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.
 - (d) Protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.
 - 3. Procedures for first responding officers to follow when interviewing persons with cognitive and communication disabilities until officers, or staff of other responsible agencies with more advanced training, are available. The procedure shall include an instruction to avoid repeated interviews whenever possible.
- (c) For each department protocol, include either a specific title-by-title list of officer responsibilities or a specific office or unit in the Department responsible for implementing the protocol.
- (d) Ensuring an appendix is created and attached to this policy that describes requirements for elder and dependent adult abuse investigations consistent with Penal Code § 368.6(c)(8)(B).
- (e) Ensuring a detailed checklist is created and attached to this policy regarding first responding responsibilities that includes but is not limited to the requirements of Penal Code § 368.6(c)(23).
- (f) Ensuring that all members carry out their responsibilities under this policy.
- (g) Verifying a process is in place for transmitting and periodically retransmitting this policy and related orders to officers, including a simple and immediate way for officers to access the policy in the field when needed.
- (h) Ensuring this policy is available to the Protection and Advocacy Agency upon request.

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312.4 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):

- (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.

312.5 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.
- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.
- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
- (j) Witness and suspect statements if available.
- (k) Review of all portable audio/video recorders, devices, and other available video.
- (l) Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.

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- (m) Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).
- (n) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the elder or dependent adult abuse (Welfare and Institutions Code § 15640(f)).
- (o) Whether a death involved the End of Life Option Act:
 - 1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).
 - 2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).
 - 3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).
 - 4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

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

An unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability should be treated as a potential homicide until a complete investigation including an 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)).

312.5.1 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

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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)).

312.6 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.

312.7 MANDATORY NOTIFICATION

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

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

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

- (a) If the abuse occurred in a long-term care facility (not a state mental health hospital or a state developmental center), notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):
 - 1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
 - 2. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by a written report to the local ombudsman within 24 hours.
 - 3. If there is any other abuse in a long-term care facility (not a state mental health or a state developmental center), a written report shall be made to the local ombudsman and corresponding state licensing agency within 24 hours.
- (b) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.
- (c) The CDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.
- (d) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.
- (e) The Division of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.
- (f) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
- (g) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).
 - 1. When a report of abuse is received by the Department, investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).
- (h) If during an investigation it is determined that the elder or dependent adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).
- (i) When the Department 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)).

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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)).

312.7.1 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.

312.8 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.

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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.

312.8.1 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)).

312.8.2 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.

312.9 INTERVIEWS

312.9.1 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.

312.9.2 DETAINING VICTIMS FOR INTERVIEWS

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

- (a) Exigent circumstances exist, such as:

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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.

312.9.3 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).

312.10 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.

312.11 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.

312.11.1 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.

312.11.2 SUPERVISOR RESPONSIBILITIES

The Detective Bureau supervisor should:

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- (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.

312.12 RECORDS BUREAU RESPONSIBILITIES

The Records Bureau is responsible for:

- (a) Providing a copy of the elder or dependent adult abuse report to the APS, ombudsman, or other agency as applicable within two working days or as required by law (Welfare and Institutions Code § 15630; Welfare and Institutions Code § 15640(c)).
- (b) Retaining the original elder or dependent adult abuse report with the initial case file.

312.13 JURISDICTION

The Montclair 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.

312.14 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.

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(b)(2) A person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

Penal Code § 368 (c)

A person who knows or reasonably should know that a person is an elder or dependent adult and who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation in which his or her person or health may be endangered, is guilty of a misdemeanor.

Penal Code § 368 (f)

A person who commits the false imprisonment of an elder or a dependent adult by the use of violence, menace, fraud, or deceit is punishable by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

Protections provided by the above Penal Code § 288 and Penal Code § 368 protect many persons with disabilities regardless of the fact they live independently.

Welfare and Institutions Code § 15610.05

"Abandonment" means the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

Welfare and Institutions Code § 15610.06

"Abduction" means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or 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.

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3. Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.
- (b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.
- (c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.
- (d) For purposes of this section, "representative" means a person or entity that is either of the following:
 1. A conservator, trustee, or other representative of the estate of an elder or dependent adult.
 2. An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

Welfare and Institutions Code § 15610.43

- (a) "Isolation" means any of the following:
 1. Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
 2. Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
 3. False imprisonment, as defined in Section 236 of the Penal Code.
 4. Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.
- (b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.
- (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.

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Welfare and Institutions Code § 15610.57

- (a) "Neglect" means either of the following:
 - 1. The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.
 - 2. The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.
- (b) Neglect includes, but is not limited to, all of the following:
 - 1. Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
 - 2. Failure to provide medical care for physical and mental health needs. A person shall not be deemed neglected or abused for the sole reason that the person voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
 - 3. Failure to protect from health and safety hazards.
 - 4. Failure to prevent malnutrition or dehydration.
 - 5. Substantial inability or failure of an elder or dependent adult to manage personal finances.
 - 6. Failure of an elder or dependent adult to satisfy any of the needs specified in paragraphs (1) to (5), inclusive, for themselves as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.
- (c) Neglect includes being homeless if the elder or dependent adult is also unable to meet any of the needs specified in paragraphs (1) to (5), inclusive, of subdivision (b).

Welfare and Institutions Code § 15610.63

"Physical abuse" means any of the following:

- (a) Assault, as defined in Section 240 of the Penal Code.
- (b) Battery, as defined in Section 242 of the Penal Code.
- (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
- (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- (e) Sexual assault, that means any of the following:
 - 1. Sexual battery, as defined in Section 243.4 of the Penal Code.
 - 2. Rape, as defined in Section 261 of the Penal Code, or former Section 262 of the Penal Code.
 - 3. Rape in concert, as described in Section 264.1 of the Penal Code.
 - 4. Incest, as defined in Section 285 of the Penal Code.

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5. Sodomy, as defined in Section 286 of the Penal Code.
 6. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
 7. Sexual penetration, as defined in Section 289 of the Penal Code.
 8. Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.
- (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
1. For punishment.
 2. For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
 3. For any purpose not authorized by the physician and surgeon.

312.15 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.

312.15.1 MANDATORY TRAINING

The Support Services Lieutenant shall ensure that appropriate personnel receive the required training, including:

- (a) Materials from POST as described in Penal Code § 368.6(c)(5)(A).
 - (b) Advanced training on senior and disability victimization available from POST, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources as provided by Penal Code § 368.6(c)(16)(A).
1. Training should include the following:
 - (a) Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers (Penal Code § 368.6(c)(1)).

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- (b) Information on the history of elder and dependent adult abuse and crimes against individuals with disabilities (see the POST Senior and Disability Victimization Policy Guidelines).

The Support Services Lieutenant 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)).

312.16 APPENDIX

[See attachment: Senior and Disability Victimization Checklist.pdf](#)

Discriminatory Harassment

313.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

313.2 POLICY

The Montclair Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

313.3 DISCRIMINATION PROHIBITED

Harassment includes, but is not limited to:

- (a) **Verbal Harassment:** Epithets, or derogatory comments or slurs on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, pregnancy, sexual orientation, sex, or age. This includes inappropriate sex-oriented comments on one's appearance, including dress or physical features, or race-oriented stories and jokes.
- (b) **Physical Harassment:** Assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, pregnancy, sexual orientation, sex, or age. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied job threats or promises in return for submission to sexual acts.
- (c) **Visual Forms of Harassment:** Derogatory posters, cartoons, or drawings related to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, pregnancy, sexual orientation, sex, or age.
- (d) **Sexual Harassment:** Unwanted sexual advances, requests for sexual favors, and other acts of a sexual nature where the following exist:
 - 1. Submission is made an explicit or implicit term or condition of employment;

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2. The submission to or rejection of the conduct is used as the basis for employment decision(s); or
3. When the conduct is intended to or actually does, unreasonably interfere with an individual's work performance, or creates an intimidating, hostile, or offensive working environment.

Even though one incident of any of the conduct described above may not necessarily constitute a violation of state or federal law, one incident alone may constitute a violation of this policy.

313.3.1 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

313.4 RESPONSIBILITIES

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

Members are encouraged to promptly report any discriminatory, retaliatory, or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to the member's immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor or manager. Complaints may also be filed with the Chief of Police, the Personnel Officer, or the City Manager.

Any member who believes, in good faith, that the member has been discriminated against, harassed, or subjected to retaliation, or who has observed harassment, discrimination, or retaliation, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

Supervisors and managers receiving information regarding alleged violations of this policy shall determine if there is any basis for the allegation and shall proceed with resolution as stated below.

313.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors and managers shall include but are not limited to:

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.

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- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or the Personnel Officer in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

313.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

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

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

313.4.3 HOW TO CONTACT THE DFEH

An employee may contact the DFEH by telephone at 1-800-884-1684.

313.4.4 QUESTIONS OR CLARIFICATION

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

313.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

313.6 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented on forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the City Manager, or the Personnel Officer, depending on the ranks of the involved parties.

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- (b) Maintained in accordance with the department's established records retention schedule.

313.6.1 NOTIFICATION OF DISPOSITION

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

313.7 WORKING CONDITIONS

The Support Services Lieutenant or the authorized designee should be responsible for reviewing facility design and working conditions for discriminatory practices. This person should collaborate with other City employees who are similarly tasked (2 CCR 11034).

313.8 REQUIRED POSTERS

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

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 Montclair 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 Montclair 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. Notification of the District Attorney is not required for reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred (Penal Code § 11166).

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority. When the alleged abuse or neglect involves a child of a minor parent or a dependent adult, notification shall also be made to the attorney of the minor or the dependent adult within 36 hours (Penal Code 11166.1; Penal Code 11166.2).

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

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.

314.3.2 RECORDS BUREAU RESPONSIBILITY

The Records Bureau shall forward a copy of the police report to the Detective Bureau and to Child Protective Services (CPS) along with a copy of the Suspected Child Abuse Report form (SS 8572). The detective handling the caseload shall receive a copy of the report and determine if additional follow-up is needed or if there is a pattern of abuse.

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:

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- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

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

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).

314.5.2 CPS REFERRALS

Upon receipt of a Child Protective Services (CPS) referral form, the form shall be forwarded without unnecessary delay to Dispatch. Dispatch shall enter the referral as a call for service, including the referral number, and leave the call open until an officer has made the necessary contacts to handle the call and provide a final call disposition. Unsuccessful attempts to contact the involved persons shall be documented on the call for service. If an officer is unable to make contact by the end of his/her shift, the referral shall be given to the on-duty Watch Commander for assignment to an officer on the following shift and the call shall remain open.

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If a CPS referral is sent to Montclair Police Department in error (e.g., wrong jurisdiction), CPS shall be notified of the error and advised of the correct jurisdiction, if known. The referral shall be entered as a call for service by Dispatch, including the referral number, and comments entered regarding the wrong jurisdiction and notification made to CPS to re-send the referral to the correct jurisdiction. A call disposition code of Handled by Dispatch (HBD) should be used.

If multiple CPS referrals are received for the same location, but they have different referral numbers, they shall be handled separately as if they are new referrals.

The officer dispatched to the call shall first contact CPS by telephone to ascertain if CPS has already handled the call or if a police response is necessary. If CPS advises they have already handled the call and police response is not necessary, the officer shall provide this information to Dispatch who shall record the information on the call for service and close the call off with a disposition of Handled by Officer (HBO). The CPS referral shall be shredded. If a police response is needed, the officer shall make the necessary contacts with involved parties to ascertain if a crime occurred. If a determination is made that no crime occurred, the officer shall provide that information to Dispatch who shall record the information on the call for service and close the call off with a disposition of Unfounded (UNF). The CPS referral shall be shredded. If a crime is found to have occurred, the officer shall conduct the necessary investigation and complete a crime report. The CPS referral shall be attached with the crime report.

In addition to a crime report, a Suspected Child Abuse Report form (SS 8572) shall be completed to cross report the crime to Child Protective Services (CPS). When the report is initiated as the result of a Child Protective Services referral form, the officer shall include the CPS referral with the police report.

The Records Bureau will forward a copy of the police report to the Detective Bureau and to Child Protective Services along with a copy of the Suspected Child Abuse Report form (SS 8572). The detective handling the caseload will receive a copy of the report and determine if additional follow-up is needed or if there is a pattern of abuse.

314.5.3 INITIAL REPORTS OF ABUSE FROM A NONMANDATED REPORTER

Members who receive a report of child abuse or neglect shall request the following information from the reporter (Penal Code § 11167):

- (a) Name and telephone number
- (b) Information and the source of information that gives rise to the knowledge or reasonable suspicion of child abuse or neglect

If the reporter refuses to provide their name and telephone number, the member should make a reasonable effort to determine the basis for the refusal and inform them that their information will remain confidential.

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 the child's family, guardian, or other responsible

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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 the child's parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

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

- (a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, and further has good cause to believe that any of the following conditions exist:
 - 1. The child has an immediate need for medical care.
 - 2. The child is in immediate danger of physical or sexual abuse.
 - 3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.
- (b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:
 - 1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
 - 2. There is no lawful custodian available to take custody of the child.
 - 3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
 - 4. The child is an abducted child.
- (c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

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

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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.

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

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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.

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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 ABUSECENTRAL INDEX (CACI)

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

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).

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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

Definitions related to this policy include:

At risk - Includes but is not limited to (Penal Code § 14215):

- A victim of a crime or foul play
- A person missing and in need of medical attention
- A missing person with no pattern of running away or disappearing
- A missing person who may be the victim of parental abduction
- A mentally impaired missing person, including cognitively impaired or developmentally disabled

Missing person - Any person who is reported missing to law enforcement when the person's location is unknown. This includes a child who has been taken, detained, concealed, enticed away, or kept by a parent in violation of the law (Penal Code § 277 et seq.). It also includes any child who is missing voluntarily, involuntarily, or under circumstances that do not conform to their ordinary habits or behavior, and who may be in need of assistance (Penal Code § 14215).

Missing person networks - Databases or computer networks that are available to law enforcement and that are suitable for obtaining information related to missing persons investigations. This includes the National Crime Information Center (NCIC), the National Missing and Unidentified Persons System (NamUs), the California Law Enforcement Telecommunications System (CLETS), the Missing Person System (MPS), and the Unidentified Persons System (UPS).

315.2 POLICY

The Montclair 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 Montclair 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 Investigation supervisor should ensure the forms and kits are developed and available in accordance with this policy, state law, federal law and the California Peace Officer Standards and Training (POST) Missing Persons Investigations guidelines, including:

- Department report form for use in missing person cases

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- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation (Penal Code § 13519.07)
- Missing person school notification form
- Medical records release form from the California Department of Justice
- California DOJ missing person forms as appropriate
- Biological sample collection kits

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 as soon as practicable.
- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- (c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (d) Broadcast a "Be on the Look-Out (BOLO) bulletin" if the person is under 21 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 years of age or may be at risk (Penal Code § 14211).
- (e) Ensure that entries are made into the appropriate missing person networks as follows:
 1. Immediately, when the missing person is at risk.
 2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report (34 USC § 41308).
- (f) Complete the appropriate report forms accurately and completely and initiate a search as applicable according to the facts.
- (g) Collect and/or review:
 1. A photograph and a fingerprint card of the missing person, if available.
 2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).

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3. Any documents that may assist in the investigation, such as court orders regarding custody.
 4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (h) When circumstances permit and if appropriate, attempt to determine the missing person's location through their telecommunications carrier.
- (i) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

315.5.1 TELETYPE NOTIFICATIONS

An entry into the Missing and Unidentified Person System (MUPS) and National Crime Information Center (NCIC) is made by the Records Bureau, or when not staffed, by Dispatch. When a missing person is under 21-years of age, an entry into MUPS/NCIC shall be made within two hours after accepting the report (42 USC 5779(a), 42 USC 5780(3)). The missing person entry must note if the case involves a person at risk or under 16-years of age.

In all missing person cases, in order to ensure prompt entry of the missing person into MUPS/NCIC, the missing person report form shall immediately be brought into the station and turned in to the Records Bureau (or Dispatch if the Records Bureau is not staffed). The same shall apply to returned and located missing person cases so the Records Bureau (or Dispatch if the Records Bureau is not staffed) can clear the MUPS/NCIC entry or send a locate to the originating agency.

An administrative teletype to surrounding agencies or regions may be sent by the Records Bureau or Dispatch. An administrative teletype shall be sent to surrounding agencies (Ontario Police Department, Upland Police Department, Chino Police Department, Claremont Police Department, Pomona Police Department, and the San Bernardino County Sheriff's Department) on all at risk missing person cases. A regional teletype can also be sent to specific agencies or regions upon an officer's request by completing a Teletype Request Form.

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 Bureau.
- (b) Ensuring resources are deployed as appropriate.

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- (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 BUREAU RESPONSIBILITIES

The responsibilities of the receiving member shall include but are not limited to:

- (a) As soon as reasonable under the circumstances, notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's residence in cases where the missing person is a resident of another jurisdiction (Penal Code § 14211).
- (b) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen (Penal Code § 14211).
- (c) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.
- (d) Forwarding a copy of the report to the Detective Bureau.
- (e) Coordinating with the NCIC Terminal Contractor for California to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

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 as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information if the school receives a call requesting the transfer of the missing child's files to another school.
- (b) Should recontact the reporting party and/or other witnesses within 30 days of the initial report and within 30 days thereafter to keep them informed, as appropriate, and to determine if any additional information has become available.
- (c) Should consider contacting other agencies involved in the case to determine if any additional information is available.

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- (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 been obtained previously and forward the photograph to California DOJ (Penal Code § 14210) and enter the photograph into applicable missing person networks (34 USC § 41308).
- (j) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).

315.7.1 DNA SAMPLE COLLECTION

- (a) In any case in which a report is taken concerning a person missing under high-risk circumstances, the assigned detective shall, within no more than 30 days, inform the parents or other appropriate relatives that they may give a voluntary sample for DNA testing or may collect a DNA sample from a personal item belonging to the missing person, if available (Penal Code §14250(c)).
- (b) Such samples shall be collected in a manner prescribed by the Department of Justice, using a DOJ model kit.
- (c) After 30 days, the reporting officer or assigned detective shall verify the status of the missing person. If still missing, the DNA sample and a copy of the original report and any supplemental reports shall be sent to the Department of Justice for testing and inclusion in the DNA database.

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):

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

315.8.1 UNIDENTIFIED PERSONS

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

- (a) Obtain a complete description of the person.
- (b) Enter the unidentified person's description into the NCIC Unidentified Person File and the NamUs database.
- (c) Use available resources, such as those related to missing persons, to identify the person.

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

315.10 TRAINING

Subject to available resources, the Support Services Lieutenant 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)

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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.

315.11 MISSING PERSON REPORTING RESPONSIBILITY REFERENCE CHART

See attachment: [Missing Persons Reference Chart PDF.pdf](#)

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.

316.2 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.

316.2.1 AMBER ALERT DEFINITIONS

Abduction - Any child under the age of 18-years who has been unwillingly removed from his/her environment without permission from the child's legal guardian or a designated legal representative.

316.2.2 CHILD ABDUCTION CRITERIA

The following conditions must be met before activating an AMBER Alert (Government Code 8594(a)):

- (a) Abduction has been determined to have occurred.
- (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.

316.2.3 PROCEDURE FOR AMBER ALERT

In the event of a confirmed child abduction, the following procedures designed to alert the media shall be followed.

- (a) The Watch Commander shall assign a member to prepare an initial press release that includes all available information which 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 phone number of the Public Information Officer or other authorized individual to handle media liaison

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7. A telephone number for the public to call to provide leads and information
- (b) Email the press release to Group B for dissemination to the local television and radio stations.
- (c) The information in the press release should also be forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) The individual responsible for making notifications shall also consider the following resources as the circumstances dictate:
 1. Emergency Alert System sites (EAS)
 2. California Highway Patrol (CHP)
 3. California Law Enforcement Telecommunication System (CLETS) message to activate the Emergency Digital Information System (EDIS)
 4. FBI local office
 5. Prompt entry of information into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC)
 6. National Center for Missing and Exploited Children, 800-843-5678
- (e) The Watch Commander, his designee, or other individual responsible for making notifications shall prepare and fax to the previously described locations, follow-up press releases with updates regarding the search and investigation, or immediately upon locating the abducted child.

316.2.4 PATROL RESPONSIBILITY

- (a) Officers responding to a child abduction call shall be responsible for the initial report and gathering of all pertinent information, ensuring the AMBER Alert criteria is met. The Watch Commander shall be immediately notified of the situation and is responsible for ensuring the criteria is met for an AMBER Alert / EAS Broadcast.
- (b) Officers should conduct a search of immediate and surrounding areas, including the interior and exterior of the victim's residence, paying special attention to where a child may hide.
- (c) Officers should conduct door-to-door searches, canvass the area for witnesses, and record license plates of cars in the area.
- (d) All available resources including support personnel, helicopter, reserve police officers, and allied agencies should be utilized.

316.3 RESPONSIBILITIES

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316.3.1 MEMBER RESPONSIBILITIES

Members of the Montclair 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.

316.4 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 WATCH COMMANDER RESPONSIBILITY

- (a) The Watch Commander shall contact Duty Command for the authorization to activate an AMBER Alert or Blue Alert. The Watch Commander will ensure a brief synopsis is prepared containing information pertinent to the event.
- (b) Once the Watch Commander has received authorization to activate an AMBER Alert or Blue Alert, the determination shall be made if it will be a regional, multi-regional, or statewide broadcast.
- (c) To initiate a multi-regional or statewide Emergency Alert System (EAS) alert the *Emergency Notification and Tactical Alert Center (ENTAC)* at (916) 843-4199.
- (d) To initiate a localized/regional Emergency Alert System (EAS) alert, contact the local primary (LP1) or (LP2) radio stations:
 - KFRG 95.1 (909)825-7796 Inland Valley
 - KCDZ 107.7 (760)366-8471 Morongo Basin
 - KFI 640 (323)225-5534 Los Angeles

A public alert should be requested as follows: *"This is (name/title) of the Montclair Police Department. I am requesting an activation of the Emergency Alert System for a AMBER Alert/Blue Alert."* A 60-second or less verbal synopsis shall be provided to Dispatch for the radio stations.

The following is an example of an Emergency Alert System (EAS) alert message for an AMBER Alert: *"The Montclair Police Department is initiating a child abduction alert. Nine-year old Jamie Smith, white female, blond hair, blue eyes, 4-feet tall, weighing 85 pounds, was last seen wearing a red top and black pants. Suspect is a white male, approximately 25 to 35-years old, brown hair with a short beard and mustache. He is driving a silver SUV, license 4ABC123, last seen heading north on Central Avenue from the Montclair Plaza. If you have any information regarding this abduction, please call the Montclair Police Department at [designated phone number] immediately."*

The Watch Commander should establish a command post and evaluate the need for additional personnel. The implementation of the Incident Command System (ICS) should be utilized. The Detective Bureau office will be utilized as the phone bank. The receptionist position shall be

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manned and used to transfer AMBER Alert related calls to the phone banks. Consideration should be used to implement Emergency Plan "B" outlined in Policy Manual § 317.4.

The Watch Commander, if warranted, should also utilize the resources of Technology to Recover Abducted Kids (TRAK) and the Changeable Message Signs (CMS). The Chino and Upland Police Departments utilize TRAK and CHP can be notified for the CMS at (909) 388-8080.

316.4.2 DISPATCHER RESPONSIBILITY

- (a) The Montclair Police Department dispatch center shall be responsible for relaying the following BOLO information:
 - 1. Broadcast to Montclair units and send an MDC message
 - 2. Send a CLETS administrative message to local law enforcement agencies (Ontario PD - ONT0, Pomona PD - POM0, Chino PD - CHN0, Claremont PD - CLA0, Upland PD - UPL0, and San Bernardino County Sheriff's Department (SBO0).
 - 3. Broadcast on Law-ICOM.
- (b) Dispatch shall send an administrative CLETS message to the area designator of 4500 (statewide law enforcement and other designated agencies). Do not use the area designator of 3200, as this does not send to all of the necessary agencies in California. The State Emergency Management Agency (EMA) will receive the CLETS message sent to area designator 4500 and will activate an Emergency Digital Information System (EDIS) bulletin (Child Abduction FLASH statewide message).
- (c) In the event of a cancellation, Dispatch shall send an administrative CLETS cancellation message to the same area designator of 4500 and to local law enforcement agencies.

316.4.3 PUBLIC INFORMATION OFFICER (PIO) RESPONSIBILITY

The Public Information Officer (PIO) or designee shall be utilized to relay information to the news outlets and public. The PIO should give scheduled interviews when updated information is received.

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.

316.6 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):

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- (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).

316.7 YELLOW ALERT

A Yellow Alert may be issued when a person is killed due to a hit-and-run incident and the department has specified information concerning the suspect or the suspect's vehicle (Government Code § 8594.15).

316.7.1 CRITERIA FOR YELLOW ALERT

All of the following conditions must be met before activating a Yellow Alert (Government Code § 8594.15):

- (a) A person has been killed due to a hit-and-run incident.
- (b) There is an indication that a suspect has fled the scene utilizing the state highway system or is likely to be observed by the public on the state highway system.
- (c) The department has additional information concerning the suspect or the suspect's vehicle including but not limited to the following:
 - 1. The complete license plate number of the suspect's vehicle.
 - 2. A partial license plate number and additional unique identifying characteristics, such as the make, model, and color of the suspect's vehicle, which could reasonably lead to the apprehension of a suspect.
 - 3. The identity of a suspect.
 - 4. Public dissemination of available information could either help avert further harm or accelerate apprehension of a suspect based on any factor, including but not limited to the time elapsed between a hit-and-run incident and the request or the likelihood that an activation would reasonably lead to the apprehension of a suspect.

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316.7.2 PROCEDURE FOR YELLOW ALERT

Requests for a Yellow Alert shall be made through the California Highway Patrol (Government Code § 8594.15).

316.8 ADDITIONAL ALERTS FOR PUBLIC SAFETY EMERGENCIES

Additional public safety emergency alerts may be authorized that utilize wireless emergency alert system (WEA) and emergency alert system (EAS) equipment for alerting and warning the public to protect lives and save property (Government Code § 8593.7).

316.8.1 CRITERIA

Public safety emergency alerts may be issued to alert or warn the public about events including but not limited to:

- (a) Evacuation orders (including evacuation routes, shelter information, key information).
- (b) Shelter-in-place guidance due to severe weather.
- (c) Terrorist threats.
- (d) HazMat incidents.

316.8.2 PROCEDURE

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

316.9 FEATHER ALERT

A Feather Alert may be issued when an indigenous person is reported missing under unexplained or suspicious circumstances (Government Code § 8594.13).

316.9.1 CRITERIA FOR FEATHER ALERT

All of the following conditions must be met before activating a Feather Alert (Government Code § 8594.13):

- (a) The missing person is an indigenous person.
- (b) The Department has utilized local and tribal resources.
- (c) The investigating officer has determined the person has gone missing under unexplained or suspicious circumstances.
- (d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

316.9.2 PROCEDURE FOR FEATHER ALERT

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

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316.10 ENDANGERED MISSING ADVISORY

An Endangered Missing Advisory may be requested when a person is reported missing who is developmentally disabled, or cognitively impaired, or has been abducted, or is unable to otherwise care for themselves, placing their physical safety at risk (Government Code § 8594.11).

316.10.1 CRITERIA FOR ENDANGERED MISSING ADVISORY

All of the following conditions must be met before activating an Endangered Missing Advisory (Government Code § 8594.11):

- (a) The missing person is developmentally disabled, cognitively impaired, has been abducted or is otherwise unable to care for themselves, placing their physical safety at risk.
- (b) The Department has utilized all available local resources.
- (c) The investigating officer has determined the person has gone missing under unexplained or suspicious circumstances.
- (d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

316.10.2 PROCEDURE FOR ENDANGERED MISSING ADVISORIES

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

316.11 EBONY ALERT

An Ebony Alert may be requested when it is determined the alert would be an effective tool in the investigation of missing Black youth, including a young woman or girl (Government Code § 8594.14).

316.11.1 CRITERIA FOR EBONY ALERT

The investigating officer may consider the following factors to make the determination that an Ebony Alert would be an effective tool (Government Code § 8594.14):

- (a) The missing person is between the ages of 12 and 25 years old, inclusive.
- (b) The missing person is missing under circumstances that indicate their physical safety is endangered or they have been subject to trafficking.
- (c) The missing person suffers from a mental or physical disability.
- (d) Determination that the person has gone missing under unexplained or suspicious circumstances.
- (e) Belief that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially

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dangerous person, or that there are other factors indicating that the person may be in peril.

- (f) The Department has utilized all available local resources.
- (g) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

316.11.2 PROCEDURE FOR EBONY ALERT

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

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

317.2.1 CRIME DEFINED

Crime shall mean a crime or public offense as defined in Penal Code § 15, which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when such resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime of violence for the purposes of this article, except that a crime of violence shall include an:

- (a) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle
- (b) Injury or death sustained in an accident caused by a driver in violation of Vehicle Code §§ 20001, 23152, or 23153
- (c) Injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he/she knowingly and willingly participated
- (d) Injury or death caused by a person fleeing from law enforcement in a vehicle (Government Code § 13955(e)(2)(F))

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 Montclair 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

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member, associate, or affiliate, or on the person's documentation or immigration status (Government Code § 13962; 2 CCR 649.35; 2 CCR 649.36).

- (b) Responding to inquiries concerning the procedures for filing a claim with CalVCB (2 CCR 649.36).
- (c) Providing copies of crime reports requested by CalVCB or victim witness assistance centers. Disclosure of reports must comply with the Records Maintenance and Release Policy.
- (d) Annually providing CalVCB with the crime victim liaison's contact information (Government Code § 13962).
- (e) Developing in consultation with sexual assault experts a sexual assault victim card explaining the rights of victims under California law (Penal Code § 680.2).
 - 1. Ensuring that sufficient copies of the rights of sexual assault victim card are provided to each provider of medical evidentiary examinations or physical examinations arising out of sexual assault in the Montclair Police Department jurisdiction (Penal Code § 680.2).
- (f) Providing information required by Penal Code § 679.09 of a deceased minor to a parent or guardian of the minor whose death is being investigated.
 - 1. In cases where the parent or guardian of the deceased minor cannot be located, information required by Penal Code § 679.09 shall be provided to the victim's immediate family, upon their request.
- (g) Providing notification to victims of human trafficking or abuse of their right to have a human trafficking advocate and a support person that the victim chooses present during an interview by the Department, prosecutor, or the suspect's defense attorney (Penal Code § 236.21).

317.3.2 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, his/her name will become a matter of public record unless the victim requests 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 (a) and (b)).

Except as authorized by law, members of this department shall not publicly disclose the name or address of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293 (c) and (d)).

317.3.3 DETECTIVE RESPONSIBILITY

In the event the victim cannot be identified or due to the nature of the injury cannot be advised of the victim confidentiality provisions of Penal Code §293, the investigating officer who later contacts or identifies the victim and/or dependents shall make the necessary advisement. The investigating officer shall use discretion and tact in making such advisement.

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317.3.4 SUPERVISOR RESPONSIBILITY

It is the responsibility of any supervisor approving a written report to ensure the report includes the Penal Code § 293 form where applicable in order to maintain victim confidentiality. It is also the responsibility of any supervisor approving a written report to ensure the report face page contains documentation that the required Information for Victims of Crime brochure and Marsy's Law card were provided to the victim as required in Policy Manual § 336.3.

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 Records 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).

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

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 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 Montclair Police Department may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code § 13519.6; Penal Code § 422.87).

318.1.1 DEFINITION AND LAWS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code § 422.6; and Penal Code § 422.87, for purposes of all other state law, unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Bias motivation - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. Depending on the circumstances of each case, bias motivation may include but is not limited to hatred, animosity, discriminatory selection of victims, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to disability or gender.

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

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

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

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motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

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

Gender expression - Gender expression means a person's gender-related appearance and behavior, regardless of whether it is stereotypically associated with the person's assigned sex at birth.

Gender identity - Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender (2 CCR § 11030).

Hate crime - "Hate crime" includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (a) Disability
- (b) Gender
- (c) Nationality
- (d) Race or ethnicity
- (e) Religion
- (f) Sexual orientation
- (g) Association with a person or group with one or more of these actual or perceived characteristics:
 - 1. "Association with a person or group with one or more of these actual or perceived characteristics" includes advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of the characteristics listed in the definition of "hate crime" under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

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

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

- Name-calling
- Insults and epithets
- Distributing hate material in public places

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- Displaying hate material on your own property

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

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

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

Nationality - Nationality means country of origin, immigration status, including citizenship, and national origin.

Race or ethnicity - Race or ethnicity includes ancestry, color, and ethnic background.

Religion - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Religious bias - In recognizing suspected religion-bias hate crimes, officers should consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance in a particular religion (e.g., crosses, hijabs, Stars of David, turbans, head coverings, statues of the Buddha).

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

Victim - Victim includes but is not limited to:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office

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

318.2 POLICY

It is the policy of this department to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This department will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this department should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All officers are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief of Police or other command-level officer to whom the Chief of Police formally delegates this responsibility.

318.3 PLANNING AND PREVENTION

In order to facilitate the guidelines contained within this policy, department members will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Department personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented as part of an overall strategy to prevent hate crimes.

318.3.1 HATE CRIMES COORDINATOR

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

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- (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 immigrant, Muslim, Arab, LGBTQ, Black or African-American, Jewish, and Sikh persons and persons with disabilities.
- (i) Coordinating with the Support Services Lieutenant to develop a schedule of required hate-crime training and include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.
- (j) Verifying a process is in place to provide this policy and related orders to officers in the field and taking reasonable steps to rectify the situation if such a process is not in place.
- (k) Taking reasonable steps to ensure hate crime data is provided to the Records Bureau for mandated reporting to the Department of Justice.
 - 1. Ensure the California Department of Justice crime data is posted monthly on the department website (Penal Code § 13023).
- (l) Reporting any suspected multi-mission extremist crimes to the department Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Bureau Policy.
- (m) Maintaining the department's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).
- (n) Submitting required hate crime materials to the California Department of Justice in accordance with the timeline established by state law (Penal Code § 13023).
- (o) Annually assessing this policy, including:

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1. Keeping abreast of POST model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, the supplemental hate crime report, and planning and prevention methods.
2. Analysis of the department'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.

318.3.2 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

- (a) Dissemination of correct information.
- (b) Assurance to affected communities or groups that the matter is being properly and promptly investigated.
- (c) The ability to request information regarding the commission of the crimes from the victimized community.

Information or records relating to hate crimes subject to public disclosure shall be released as provided by the Records Maintenance and Release Policy or as allowed by law. In accordance with the Media Relations Policy, the supervisor, public information officer, or the authorized designee should be provided with information that can be responsibly reported to the media. When appropriate, the department spokesperson should reiterate that hate crimes will not be tolerated, will be investigated seriously, and will be prosecuted to the fullest extent of the law.

The Department should consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

- Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- Inform the community of the impact of these crimes on the victim, the victim's family, and the community, and of the assistance and compensation available to victims.
- Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- Provide the community with ongoing information regarding hate crimes and/or hate incidents.

318.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

318.4.1 INITIAL RESPONSE

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

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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 § 7923.615.
 - 4. Prior occurrences in this area or with this victim.
 - 5. Statements made by suspects; exact wording is critical.
 - 6. The victim's protected characteristics and determine if bias was a motivation "in whole or in part" in the commission of the crime.
- (j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.

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- (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).
- (n) Document any suspected multi-mission extremist crimes.

318.4.2 INVESTIGATION

Investigators at the scene of, or performing follow-up investigation on, a suspected hate or bias crime or hate incident should take all actions deemed reasonably necessary, including but not limited to the following:

- (a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
- (b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
- (c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
- (d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.
- (e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:
 - 1. Hate literature.
 - 2. Spray paint cans.
 - 3. Threatening letters.
 - 4. Symbols used by hate groups.
 - 5. Desecration of religious symbols, objects, or buildings.
- (f) Request the assistance of translators or interpreters when needed to establish effective communication.
- (g) Conduct a preliminary investigation and record information regarding:
 - 1. Identity of suspected perpetrators.
 - 2. Identity of witnesses, including those no longer at the scene.
 - 3. Offer of victim confidentiality per Government Code § 7923.615.
 - 4. Prior occurrences, in this area or with this victim.
 - 5. Statements made by suspects; exact wording is critical.

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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).
- (o) Document any suspected multi-mission extremist crimes.
- (p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

318.4.3 SUPERVISION

The supervisor shall confer with the initial responding officer and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

- (a) Provide immediate assistance to the crime victim by:
 1. Expressing the department's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
 2. Expressing the department's interest in protecting victims' anonymity (confidentiality forms, Government Code § 7923.615) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
 3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a department chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).

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- (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.

318.5 TRAINING

All members of this department will receive POST-approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6. Training should include (Penal Code § 422.87):

- (a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias, gender bias, and religion bias.
- (b) Accurate reporting by officers, including information on the general underreporting of hate crimes.
- (c) Distribution of hate crime brochures.

318.6 APPENDIX

See attachments:

[Statutes and Legal Requirements.pdf](#)

[Hate Crime Checklist.pdf](#)

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Hate Crimes

[Supplemental Hate Crime Report.pdf](#)

Standards of Conduct

319.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Montclair 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 Montclair 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.

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

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.

319.4.1 WRITTEN REPRIMANDS

Any member requesting to formally appeal a written reprimand must submit a written request to his/her Division Lieutenant within ten days of receipt of the written reprimand. The Division Lieutenant will then forward the request to the Captain. The Captain will then assign the appeal to an uninvolved supervisor of at least one rank above the rank of the supervisor issuing the original written reprimand.

For appeal rights, the provisions as set forth in the Memorandum of Understanding (MOU) and the member's labor association shall apply.

319.4.2 SUSPENSION AND ADMINISTRATIVE LEAVE

Members who have been suspended without pay or placed on paid administrative leave shall surrender their badge, ID card, and weapon to the Department and will have no peace officer power and authority while on the suspension or administrative leave. While on suspension or

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administrative leave, members are prohibited from accessing the facility without authorization from a member of Command Staff.

Members who have been placed on paid administrative leave are subject to recall and may be required to respond to the station. The supervisor placing the member on administrative leave shall explain to the member the restrictions being placed upon them while being paid.

319.4.3 REMOVAL FROM ASSIGNMENT

As a form of discipline, a member not meeting the standards of an assignment may be removed from the assignment.

319.4.4 SALARY REDUCTION

As a form of discipline, a member's salary may be reduced.

319.4.5 DEMOTION

As a form of discipline, a member may be demoted to a lesser rank.

319.4.6 TERMINATION

As a form of discipline, a member may be terminated from employment with the City of Montclair.

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 City 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.

319.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Montclair Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for nondepartment business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).

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- (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.
- (f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

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.

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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.
- (b) 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).
- (c) Disclosing to any unauthorized person any active investigation information.
- (d) 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.
- (e) 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.
- (f) 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 Personnel Department of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

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

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- (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's 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 City policy, the memorandum of understanding, or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the memorandum of understanding, or the Chief of Police.
- (i) Any act on or off duty that brings discredit to this department.

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 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.

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- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (g) Use of obscene, indecent, profane or derogatory language while 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

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- (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.

Report Preparation

320.1 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.

320.1.1 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.

320.1.2 ATTACHED DOCUMENTS

This heading in a report is to be used for photocopies of items booked into evidence. Examples include, but are not limited to documents, counterfeit currency, buy money, knives, drug paraphernalia, credit cards, identification, photo lineups.

The CR number shall be written on each attached document.

320.1.3 OFFICER'S NOTES

No item other than crime report forms, items listed as attachments to the report in the narrative, or items clearly labeled as "Officer's Notes" should be included with a police report. Items not meeting these criteria that are sent to the Records Bureau with an approved report will not be included in the report file and will be disposed of.

Any item that is smaller than an 8-1/2-inch x 11-inch sheet of paper should be taped to a standard sheet of paper and appropriately labeled as "Officer's Notes." The member who creates a report is the member responsible for determining what should be labeled and attached to the report. The CR number shall be written on each page.

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Items attached with the police report are subject to discovery under the rules of evidence and copies are provided to the District Attorney's office. Officer's notes concerning any criminal investigation conducted are to be submitted with the crime report. The notes will become a permanent part of the report file. Officer's notes are not routinely distributed with copies of the police report, but shall be provided to the District Attorney in compliance with a discovery request.

320.1.4 CAL-GANG AND ACCURINT INFORMATION

Cal-Gang, Accurint, and COPLINK shall not be included in police reports as a source of information. Officers may state in the report that information was obtained, however no reference shall be made to the source of that information (Cal-Gang, Accurint or COPLINK). Printouts from those databases shall not be included as attachments to police reports.

If an officer is questioned while testifying in court, the officer may exercise his/her right under Evidence Code § 1040(a), which refers to official information being acquired in confidence by a public employee in the course of his/her duty which is not open or officially disclosed to the public prior to the time the claim of privilege is made. This is a privilege only the officer can exert, therefore the officer should not rely on the Deputy District Attorney prosecuting the case to state an objection.

320.1.5 LISTING WITNESS INFORMATION

Members shall list both a residence and business address (if applicable) for witnesses in crime reports. The only exception to this policy would be a loss prevention officer from one of the four major stores at the Montclair Plaza (Sears, JC Penney, Nordstrom, and Macys) and Plaza security officers. In these cases, members may list the security officer or loss prevention officer's business address and telephone number in place of their home address and telephone number. The driver's license number and date of birth shall be listed for all witnesses.

320.1.6 PEACE OFFICER PERSONAL INFORMATION

Whenever a peace officer is a victim, witness, or reporting party to a crime, the reporting officer shall list the peace officer's business address and telephone number. All other personal information is not required. This applies to a peace officer from any agency.

Whenever a peace officer is a suspect or arrestee in a criminal case, the reporting officer shall list the peace officer's business address and telephone number. All other personal information (e.g., date of birth, driver's license number) shall be listed. This applies to a peace officer from any agency.

Refer to Policy Manual § 502.4.1 regarding the listing of peace officer personal information in traffic collision reports.

320.2 REQUIRED REPORTING

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

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320.2.1 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. Senior and Disability Victimization Policy
 - 5. Hate Crimes Policy
 - 6. Suspicious Activity Reporting Policy
- (e) All misdemeanor crimes where the victim desires a report

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., dispatch log).

320.2.2 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

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- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

320.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

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

320.2.4 INJURY OR DAMAGE BY CITY PERSONNEL

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

320.2.5 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.

320.2.6 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES

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

320.3 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

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supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

320.4 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.

320.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Bureau for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Bureau may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

Media Relations

321.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of official department information to the media. It also addresses coordinating media access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities.

321.2 POLICY

It is the policy of the Montclair Police Department to protect the privacy rights of individuals, while releasing non-confidential information to the media regarding topics of public concern. Information that has the potential to negatively affect investigations will not be released.

321.3 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. In situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Lieutenants, Watch Commanders, and designated Public Information Officers (PIOs) may prepare and release information to the media in accordance with this policy and the applicable laws regarding confidentiality.

321.4 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of department members and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at a minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person, or is otherwise prohibited by law.

321.5 MEDIA REQUESTS

Any media request for information or access to a law enforcement incident shall be referred to the PIO, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, members shall consider the following:

- (a) At no time shall any member of this department make any comment or release any official information to the media without prior approval from a supervisor or the PIO.
- (b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- (c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department

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without prior approval of the Chief of Police. Under these circumstances the member should direct the media to the agency handling the incident.

321.6 ACCESS

Authorized media representatives shall be provided access to scenes of disasters, criminal investigations, emergencies, and other law enforcement activities as required by law.

Access by the media is subject to the following conditions (Penal Code § 409.5(d)):

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public. Media representatives may not bring or facilitate the transport of an unauthorized person into a closed area unless it is for the safety of the person.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
 - 1. Based upon available resources, reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the PIO or other designated spokesperson.
- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved member (Government Code § 3303(e)).
- (d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

321.6.1 CRITICAL OPERATIONS

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

321.6.2 TEMPORARY FLIGHT RESTRICTIONS

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

321.7 PRESS RELEASE FORMS

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321.7.1 RECOGNIZING NEWSWORTHY INCIDENTS

Generally, the information contained on the Computer Aided Dispatch (CAD) Incident Inquiry Log is sufficient notice of police activity. There are times, however, when it is advisable to prepare a press release. Such incidents shall include, but not be limited to, investigations or clearance of murders, robberies, rapes, major assault cases, major loss burglaries, major traffic accidents, or where fatalities occur. In addition to the press release, consideration should be given for immediate notification of the news media on any incident which is out of the ordinary or spectacular in nature.

321.7.2 PREPARING THE PRESS RELEASE FORM

In preparing the press release, several considerations must be made. These considerations include government restrictions and requirements for release of information, maintaining the safety of persons involved, compromising an investigation, and the right of the accused to a fair trial. Upon completion, the press release form is to be approved by a supervisor and then forwarded the Records Bureau. Records Bureau personnel will email the press release as a PDF document to the media and forward it to the Records Supervisor who will add the press release information to the City website. The original is retained on a clipboard where it is available for public or press viewing.

321.8 CONFIDENTIAL OR RESTRICTED INFORMATION

It shall be the responsibility of the PIO to ensure that confidential or restricted information is not inappropriately released to the media (see the Records Maintenance and Release and Personnel Records policies). When in doubt, authorized and available legal counsel should be consulted prior to releasing any information.

321.8.1 EMPLOYEE INFORMATION

The identities of officers involved in shootings or other critical incidents may only be released to the media upon the consent of the involved officer or upon a formal request filed.

Any requests for copies of related reports or additional information not contained in the information log (see the Information Log section in this policy), including the identity of officers involved in shootings or other critical incidents, shall be referred to the PIO.

Requests should be reviewed and fulfilled by the Custodian of Records, or if unavailable, the Watch Commander or the authorized designee. Such requests will be processed in accordance with the provisions of the Records Maintenance and Release Policy and public records laws.

321.9 RELEASE OF INFORMATION

The Department may routinely release information to the media without receiving a specific request. This may include media releases regarding critical incidents, information of public concern, updates regarding significant incidents, or requests for public assistance in solving crimes or identifying suspects. This information may also be released through the department website or other electronic data sources.

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321.9.1 INFORMATION LOG

The Department will maintain a daily information log of significant law enforcement activities. Log entries shall only contain information that is deemed public information and not restricted or confidential by this policy or applicable law. Upon request, the log entries shall be made available to media representatives through the Watch Commander.

The daily information log will generally include:

- (a) The date, time, location, case number, type of crime, extent of injury or loss, and names of individuals involved in crimes occurring within this jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation, or the information is confidential (e.g., juveniles or certain victims).
- (b) The date, time, location, case number, name, birth date, and charges for each person arrested by this department, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation or the information is confidential (e.g., juveniles).
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident.

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

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

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated department media representative, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Public Records Act (see the Records Maintenance and Release Policy).

NIXLE System

322.1 PURPOSE AND SCOPE

In an effort to enhance public safety and promote community awareness, the NIXLE system may be used to disseminate timely, geographically relevant information to the public. The NIXLE system disseminates information to NIXLE subscribers via text, web, and email. The purpose of this policy is to establish criteria and procedures for posting a NIXLE message.

322.2 AUTHORITY TO RELEASE LAW ENFORCEMENT INFORMATION

It is ultimately the responsibility of the Chief of Police to release information to the public. Information pertaining to department activity may be disseminated to the public through NIXLE, subject to guidelines established in this policy. That responsibility is delegated to the following personnel:

- (a) The Community Relations Division (CRD) Lieutenant will serve as the department's NIXLE system administrator. Additional administrators may be added as directed by the Chief of Police. The CRD Lieutenant is authorized to publish any level of message on NIXLE.
- (b) Members of the Command Staff may publish any level of message on NIXLE and may authorize other personnel to publish NIXLE messages on their behalf when it is in the best interest of the agency or public.
- (c) When exigent circumstances exist affecting public safety or the safety of Department members, and contacting Duty Command for authorization is not practicable, the Watch Commander may authorize the immediate posting of a NIXLE message. The NIXLE user name and password will be maintained in the Dispatch center. The Watch Commander shall advise the Duty Commander of the posting as soon as practicable. Messages authorized by the Watch Commander shall be documented on the Patrol Sergeant's Shift Report.
- (d) Investigative supervisors and detectives, upon consulting with a member of Command Staff, are encouraged to use the service when a crime pattern or trend emerges and the use of NIXLE has the potential to assist in crime prevention or criminal investigation. Message requests should be forwarded to the CRD Lieutenant for posting.
- (e) In a multi-jurisdictional investigation, the lead investigative agency is responsible for providing or coordinating the release of public information on NIXLE.
- (f) Any NIXLE release involving a multi-jurisdictional investigation shall be authorized by a member of Command Staff.

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NIXLE System

322.3 USE OF NIXLE

When authorized to send a message via NIXLE, members will access the agency web page at <https://agency.nixle.com/login/> and log on using the user name and password. From the "control panel" on the left side of the page, choose one of three message types: Alert, Advisory, or Community. The following describes each type of message:

(a) Alert:

1. Intended for "urgent, must know" and time-sensitive information, including:
 - (a) Missing person (at-risk) alerts
 - (b) Major building or area evacuations
 - (c) A suspect at large that poses an imminent threat to the public or other law enforcement personnel
 - (d) Imminent life threatening weather/natural disaster advisory
 - (e) Evacuation or shelter in place advisories
2. Alert information is sent to every user registered in the jurisdiction or defined geographic area and users cannot opt out of receiving these messages; therefore, Alert messages must be sent prudently.
3. Posting Authority: Alert notifications shall only be posted with the authorization of a member of Command Staff or the Watch Commander.

(b) Advisory:

- (a) Intended for less urgent, need-to-know information, both time-sensitive and non-time-sensitive messages, including:
 - (a) Crime patterns
 - (b) School lock-downs
 - (c) BOLOs (Be On the Lookout)
 - (d) Wanted Persons
 - (e) Crime Bulletins
 - (f) Increased terror warnings
 - (g) Suspicious activity
 - (h) Registered Offender Information only with the approval of the Chief of Police
 - (i) Time-sensitive traffic messages, including:
 - (a) A traffic collision that will either impact traffic or shut down a route for a specific period of time.
 - (b) Implications during commute hours, high traffic areas, or during special events.

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- (j) Posting Authority: Advisory notifications shall only be posted with the authorization of a member of Command Staff, Sergeant, or the Administrative Supervisor.
- (c) Community:
 - (a) Non-time-sensitive messages, news, and information including:
 - (b) Police/City sponsored events and activities
 - (a) Community meetings
 - (b) Public awareness/education announcements
 - (c) Posting Authority: Community notifications shall only be posted with the authorization of a member of Command Staff, Sergeant, or the Administrative Supervisor.

322.3.1 MESSAGE GUIDELINES

When posting a Nixle message, the following should be considered:

- (a) Accuracy of the information distributed
- (b) Brevity
- (c) Provide a summary of the problem/trend/pattern
- (d) Specify location by hundred block and/or nearest cross streets
- (e) Photographs or attachments should be included in postings when applicable
- (f) Include unit/division, investigator, and/or member contact information at the bottom of the notification

322.3.2 USER NAME AND PASSWORD SECURITY

NIXLE Connect allows the use of two user names. One user name is assigned to the Community Relations Division Lieutenant. The CRD Lieutenant is the designated NIXLE system administrator. Absent exigent circumstances, members should forward message requests to the CRD Lieutenant. The CRD Lieutenant, or his/her designee, should review the request, revise as necessary, and post the message as soon as practicable.

The CRD Lieutenant shall provide each member of Command Staff with the NIXLE user name and password. The CRD Lieutenant will be responsible for placing a sealed envelope in the Dispatch center, which will contain a NIXLE log in user name and password. Pursuant to this policy, a member of Command Staff or the Watch Commander may authorize a member to publish a NIXLE message using the user name and password. Once the envelope has been unsealed, the envelope will be maintained in the Dispatch center until retrieved by the CRD Lieutenant. The Watch Commander approving the release of a NIXLE message shall notify the CRD Lieutenant the password was used. The Watch Commander shall make a notation on the Patrol Sergeant's Shift Report that a NIXLE message was released.

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The CRD Lieutenant shall retrieve the unsealed envelope from the Dispatch center and dispose of the password as soon as practicable. The CRD Lieutenant shall create a new password sealing it into an envelope. The CRD Lieutenant will then provide members of Command Staff with the updated password, and place the sealed envelope back into the Dispatch center for the release of future NIXLE messages.

322.4 LAW ENFORCEMENT INFORMATION RELEASE GUIDELINES

The release of information is subject to applicable local, state, and federal laws. Any information released via NIXLE shall be in compliance with this Policy. No member of this agency shall release any information that would hamper the successful conclusion of an investigation or jeopardize the safety of witnesses, victims or other involved parties.

- (a) When authorized by this policy, members may release the following crime information:
 - 1. Basic information about a crime or incident
 - 2. Basic information about victims, except as excluded below
 - 3. Descriptions of suspects
 - 4. Descriptions of weapons and vehicles used
 - 5. Basic descriptions of stolen items
 - 6. Basic descriptions of injuries and condition of victims
 - 7. The name, age, address, and other basic information arrestees and the charges against them
 - 8. Information contained in arrest affidavits and other applicable crime or incident reports
 - 9. Suspects sketches necessary to identify an unknown offender(s)
 - 10. Surveillance video footage or image captures of surveillance video to identify an unknown offender(s)
 - 11. Photographs (including photographs used in wanted flyers) in accordance with Policy.
- (b) Agency members shall not release the following information:
 - 1. Names, addresses, and any other information that would identify the victim of any crime
 - 2. Names, addresses, or identifying information related to juvenile suspects or arrestees
 - 3. Active criminal investigative information, active criminal intelligence information, surveillance techniques, or personnel deployment
 - 4. Names of informants
 - 5. Active personnel investigations
 - 6. Names of witnesses

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NIXLE System

7. Information concerning civil litigation involving the City of Montclair
 8. The identity of critically injured or deceased persons prior to notification of next-of-kin
 9. Home address, telephone numbers, and familial information of law enforcement personnel
 10. Cal-Photo booking photos/information
 11. Any other information prohibited from public disclosure by federal or state law, or department policy
- (c) Unauthorized release to the public of "Law Enforcement Sensitive" (LES) and "Sensitive, but Unclassified" (SBU) information/material, as designated by the federal government, is prohibited.
1. Law Enforcement Sensitive (LES) information is defined as unclassified information of a sensitive and proprietary nature that if disclosed could cause harm to law enforcement activities by jeopardizing investigations, compromising operations, or causing life-threatening situations for confidential informants, witnesses, or law enforcement personnel. These categories are designated as law enforcement sensitive:
 - (a) Informant and witness information
 - (b) Grand Jury information subject to the Federal Rules of Criminal Procedure, Rule 6(e), Grand Jury Secrecy Proceedings and Disclosure
 - (c) Law enforcement sources and undercover operations
 - (d) Law enforcement intelligence sources and methods
 - (e) Federal law enforcement agency activities
 - (f) Federal support to state and local law enforcement activities
 - (g) Information pertaining to the judiciary, to include investigations of inappropriate communications
 2. Sensitive, but Unclassified (SBU) information is defined as "unclassified information of a sensitive nature, not otherwise categorized by statute or regulation, the unauthorized disclosure of which could adversely impact a person's privacy or welfare, the conduct of Federal programs, or other programs or operations essential to the national interest."
 3. All LES/SBU information requires accountability and approval for release. Release of SBU information to unauthorized personnel is prohibited. Unauthorized release of sensitive information may result in prosecution and/or disciplinary action.
- (d) Although NIXLE was designed as a community/neighborhood level notification system, it should be expected that any NIXLE posting will be monitored by the media. As such, protocol as outlined in Policy 346, News Media Relations, shall be adhered to.

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322.5 NIXLE DISPATCH CENTER

A NIXLE message can also be posted in the field, via telephone, when access to the internet is unavailable or impractical. To access the service via telephone, call 888-NIXLE-IT (888-649-5348) for the NIXLE Dispatch Center. After providing a password, the posting will be entered and disseminated to the desired geographic area just as if it were posted to via the Internet. NIXLE suggests that this be used as a supplement to the standard service and should not be used as the common posting method.

322.6 NIXLE SUPPORT

The NIXLE Secure Desk provides support to department personnel. The NIXLE Secure Desk can assist you with technical support, non-technical support, general inquiries, and informational requests. To reach the NIXLE Secure Desk, call 1-877-NIXLE-SD or e-mail securedesk@nixle.com

Subpoenas and Court Appearances

323.1 PURPOSE AND SCOPE

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

323.2 POLICY

Montclair Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

323.3 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)).

323.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.

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- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Montclair Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Montclair 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.

323.3.2 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.

323.3.3 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.

323.4 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.

323.4.1 RESPONSE TIME

Members must remain available to report within one hour of receiving a call to appear.

323.5 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.

323.6 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.

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- (b) Dress in the department uniform or business attire. Absent supervisor approval, officers testifying during a jury trial shall wear business attire or a Class "A" or Class "B" uniform. Class "C" uniforms or outer carriers are not permitted to be worn during a jury trial absent supervisor approval.
- (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.

323.6.1 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.

323.7 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

324.1 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.

324.2 LAW ENFORCEMENT ACTIVITY OFF-DUTY

In keeping with the intent of the Penal Code, peace officers not restricted from acting in a peace officer capacity as outlined elsewhere in this manual, state law, or special instruction from the Chief of Police, may take appropriate police action while off-duty. The discretionary act of an off-duty exercises of peace officer powers shall be gauged by the applicable sections of this manual and the circumstances presented to the officer. Officers are reminded to use sound discretion when acting in an off-duty capacity, as they are usually not readily identifiable as a peace officer and are without immediate supporting personnel. Under all but the most unusual circumstances, officers are to be discouraged from taking off-duty peace officer action for violations of traffic infractions whether they are in an identifiable police unit or not. Should a peace officer take any official police action creating a nexus to their position with the Montclair Police Department, they shall report this action via memorandum to the Chief of Police in a timely manner no later than their next work day.

324.3 POLICY

It is the policy of the Montclair 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.

324.4 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.

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Outside Agency Assistance

324.4.1 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 Montclair Police Department shall notify his/her supervisor or the Watch Commander and Dispatch as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

324.5 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

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

324.6 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.

324.7 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 Support Services 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 Dispatch and the Watch Commander to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Support Services Lieutenant should maintain documentation that the appropriate members have received the required training.

Registered Offender Information

325.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Montclair 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.

325.2 POLICY

It is the policy of the Montclair 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.

325.3 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.

325.3.1 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.).

325.4 MONITORING OF REGISTERED OFFENDERS

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

- (a) Efforts to confirm residence using an unobtrusive method, such as an internet search or drive-by of the declared residence.
- (b) Review of information on the California DOJ website for sex offenders.
- (c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

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Registered Offender Information

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

325.5 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 Montclair Police Department's website. Information on sex registrants placed on the Montclair Police Department's website shall comply with the requirements of Penal Code § 290.46.

The Records Supervisor may release local registered offender information to residents only in accordance with applicable law and in compliance with a California Public Records Act request (Government Code § 7920.000 et seq.; Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1).

325.5.1 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

326.1 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.

326.2 POLICY

The Montclair 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.

326.3 MINIMUM CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police and Command Staff. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

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

326.4 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.

326.4.1 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification policy, the Chief of Police and Duty Command shall be notified.

326.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the Watch Commander will notify the Detective Bureau supervisor. The Detective Bureau supervisor will instruct the Watch Commander which detective is to respond.

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326.4.3 ACCIDENT INVESTIGATION TEAM NOTIFICATION

In the event of a traffic fatality or major injury, the Watch Commander may request the Accident Investigation Team to respond. Duty Command shall be notified as soon as practicable.

326.4.4 PUBLIC INFORMATION OFFICER (PIO)

The Public Information Officer may be called after a command staff member has been notified and determines that the Public Information Officer (PIO) should respond.

Death Investigation

327.1 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.

327.2 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.

327.2.1 CORONER REQUEST

Government Code § 27491 and Health & Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner and cause of certain deaths. The Coroner shall be called in any of the following cases:

- (a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities).
- (b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746 in the 20 days prior to death.
- (c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.
- (d) Known or suspected homicide.
- (e) Known or suspected suicide.
- (f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.
- (g) Related to or following known or suspected self-induced or criminal abortion.
- (h) Associated with a known or alleged rape or crime against nature.
- (i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.
- (j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.
- (k) Accidental poisoning (food, chemical, drug, therapeutic agents).

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- (l) Occupational diseases or occupational hazards.
- (m) Known or suspected contagious disease and constituting a public hazard.
- (n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.
- (o) In prison or while under sentence. Includes all in-custody and police involved deaths.
- (p) All deaths of unidentified persons.
- (q) All deaths of state hospital patients.
- (r) Suspected Sudden Infant Death Syndrome (SIDS) deaths.
- (s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the coroner.

327.2.2 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.

327.2.3 DEATH NOTIFICATION

When practical, and if not handled by the Coroner's Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Coroner may be requested to make the notification. The Coroner needs to know if notification has been made. Assigned detectives may need to talk to the next-of-kin.

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327.2.4 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.

327.2.5 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form.

327.2.6 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.

327.2.7 DEATH ON OR BY CITY PROPERTY

Where potential civil liability exists from a death occurring as a result of an act by a city employee, or on city property or equipment, a death report shall be made. Sidewalks, walkways, and roadways maintained by the City of Montclair are to be treated as city property.

Identity Theft

328.1 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.

328.2 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) 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.
- (e) Following supervisory review and departmental processing, the initial report should be forwarded to the appropriate detective for follow up investigation, coordination with other agencies and prosecution as circumstances dictate.

Private Persons Arrests

329.1 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.

329.2 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.

329.3 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/her presence
- (b) When the person arrested has committed a felony, although not in his/her presence
- (c) When a felony has been in fact committed and he/she has reasonable cause for believing the person arrested has committed the crime

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.

329.4 OFFICER RESPONSIBILITIES

Any officer coming into contact with a person wishing to make a private persons 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 there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest, and protect the public safety.

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1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The officer must include the basis of such a determination in the crime 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 the crime 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 custody for booking
 2. Release the individual pursuant to a Notice to Appear Citation

329.5 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 crime report regarding the circumstances and disposition of the incident.

Limited English Proficiency Services

331.1 PURPOSE AND SCOPE

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

331.1.1 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 Montclair 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).

331.2 POLICY

It is the policy of the Montclair 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.

331.3 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 Field Services 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 Montclair 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 Dispatch Supervisor. 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.

331.4 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.

331.5 TYPES OF LEP ASSISTANCE AVAILABLE

Montclair 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.

331.6 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.

331.7 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.

331.8 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 City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

331.9 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.

331.9.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

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331.9.2 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.

331.10 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.

331.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Montclair Police Department will take reasonable steps and will work with the Personnel Department to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

331.11.1 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 Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

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Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

331.12 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.

331.13 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

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

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331.14 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.

331.15 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.

331.16 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.

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 LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

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The Support Services Lieutenant 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 Support Services Lieutenant 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.

331.18.1 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 Support Services Lieutenant shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

Communications with Persons with Disabilities

332.1 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.

332.1.1 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.

332.2 POLICY

It is the policy of the Montclair 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.

332.2.1 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, department members should remain alert to the possibility of communication problems and exercise special care in the use of all gestures and verbal and written communication in an effort to minimize initial confusion and misunderstanding when dealing with any individual(s) with known or suspected disabilities or communication impairments.

332.3 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 Field Services Lieutenant or the authorized designee.

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

- (a) Working with the City ADA coordinator regarding the Montclair Police Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Dispatch Supervisor. The list should include information regarding the following:
 - 1. Contact information
 - 2. Availability
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

332.3.1 FIELD RESOURCES

Members are encouraged to utilize resources immediately available to them in any contact with a known or suspected disabled or impaired person. Examples of this would include such simple methods as:

- (a) Hand gestures or written communications exchanged between the member and a deaf or hearing impaired individual
- (b) Facing an individual utilizing lip reading and speaking slowly and clearly
- (c) Slowly and clearly speaking or reading simple terms to any visually or mentally impaired individual
- (d) Writing down the information

332.3.2 TELEPHONE INTERPRETER SERVICES

The Dispatch Supervisor is the liaison with interpreter services to be contacted at department expense to assist deaf or hearing impaired individuals upon approval of a supervisor.

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332.3.3 TTY AND RELAY SERVICES

Individuals who are deaf or hearing impaired must be given the opportunity to use available text telephones (TTY or TDD). All calls placed by such individuals through such services shall be accepted by this department.

332.3.4 COMMUNITY VOLUNTEERS

Depending on the circumstances, location and availability, responsible members of the community may be available to provide qualified interpreter services, such as those who are proficient in American Sign Language (ASL). Sources for these individuals may include local businesses, banks, churches, and school officials.

332.3.5 FAMILY AND FRIENDS OF DISABLED OR IMPAIRED INDIVIDUAL

While family and friends of a disabled or impaired individual may frequently offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in emergency or critical situations. Further, the nature of the contact and relationship between the disabled individual and the individual offering services must be carefully considered (e.g., victim/suspect).

332.4 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.

332.4.1 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

In order to provide disabled and impaired individuals with access to law enforcement services when they are victims of, or witnesses to, alleged criminal activity or other emergencies, this department has designated its 911 lines as its top priority for assistance with such services.

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Department personnel will make every reasonable effort to promptly accommodate such disabled and impaired individuals utilizing 911 lines through any or all of the above resources.

While 911 calls shall receive top priority, it is also important that reasonable efforts be made to accommodate disabled and impaired individuals seeking more routine access to services and information from this department.

332.4.2 CUSTODIAL INTERROGATIONS AND BOOKINGS

In an effort to ensure the rights of all disabled and impaired individuals are protected during arrest and custodial interrogation, this department places a high priority on providing reasonable communication assistance during such situations. It is further recognized that miscommunication during custodial interrogations may have a substantial impact on the evidence presented in any related criminal prosecution. As such, department members providing communication assistance in these situations will make every reasonable effort to accurately and effectively communicate with disabled or impaired individuals.

Members providing such assistance shall also be aware of the inherent communication impediments to gathering information from disabled or impaired individuals throughout the booking process or any other situation in which a disabled or impaired individual is within the control of department personnel. Medical screening questions are commonly used to elicit information on individual's medical needs, suicidal inclinations, presence of contagious diseases, potential illness, resulting symptoms upon withdrawal from certain medications or the need to segregate the arrestee from other prisoners, therefore it is important for this department to make every reasonable effort to provide effective communication assistance in these situations.

- (a) Individuals who require communication aids (e.g., hearing aids) should be permitted to retain such devices while in custody.
- (b) While it may present officer safety or other logistical problems to allow a physically disabled individual to retain devices such as a wheelchair or crutches during a custodial situation, the removal of such items will require that other reasonable accommodations be made to assist such individuals with access to all necessary services.
- (c) Whenever a deaf or hearing impaired individual is detained or arrested and placed in handcuffs, officers should consider, safety permitting, placing the handcuffs in front of the body in order to allow the individual to sign or write notes.

332.4.3 FIELD ENFORCEMENT AND INVESTIGATIONS

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 which may involve disabled or impaired individuals. The scope and nature of these activities and contacts will inevitably vary, therefore the Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every officer in the field. Each

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officer and/or supervisor must, however, assess each such situation to determine the need and availability for communication assistance to any and all involved disabled or impaired individuals.

Although not every situation can be addressed within 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 taken with a disabled or impaired individual. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with a deaf individual.

332.4.4 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department have become increasingly recognized as important to the ultimate success of more traditional law enforcement duties. As such, this department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services to disabled individuals and groups.

332.5 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.

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If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Montclair 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.

332.6 REPORTING

Whenever any member of this department is required to complete a report or other documentation, and communication assistance is provided to any involved disabled or impaired individual(s), such services should be noted in the crime report or other documentation.

332.7 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 Support Services Lieutenant 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 Support Services Lieutenant 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.

332.7.1 CALL-TAKER TRAINING

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

- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.
- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

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

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332.8 TYPES OF ASSISTANCE AVAILABLE

Montclair 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.

332.9 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.

332.10 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).

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332.11 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

332.12 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.

332.13 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.

332.14 FIELD ENFORCEMENT

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

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

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

332.14.1 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.

332.15 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

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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.

332.16 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.

332.17 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.

332.18 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

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333.1 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.

333.1.1 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.

333.2 POLICY

The Montclair 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.

333.3 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.

333.4 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.

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

333.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

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- (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.

333.4.2 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.

333.4.3 FIREARMS AND DEADLY WEAPONS

Officers shall take into temporary custody any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search or other lawful search in a domestic violence incident and process it for safekeeping as authorized in Penal Code § 18250. In no event shall such a firearm or weapon be returned within less than 48 hours. If necessary, officers may also obtain a search warrant for firearms or other deadly weapons that are subject to seizure.

The officer taking custody of any firearm or other deadly weapon shall issue the individual possessing such weapon a receipt fully describing the weapon (including any serial number) and indicate the location where the weapon may be recovered along with any applicable time limit for recovery (Penal Code § 18255).

No person who is the subject of an Emergency Protective Order issued pursuant to Penal Code § 646.91 may own, possess, receive, purchase or attempt to purchase a firearm while such order is in effect.

333.4.4 RETURN OF SEIZED FIREARMS AND DEADLY WEAPONS

- (a) If, within five days after the seizure, a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident and the officer has no reason to believe that such firearm or weapon would further endanger the victim or person reporting the domestic violence, the Department shall notify the lawful owner or other person who was in lawful possession of the firearm or weapon of its availability.
- (b) If, however, any officer or supervisor has reasonable cause to believe that a firearm or other deadly weapon seized in a domestic violence incident would likely result in further danger to the victim or person reporting such incident, or that further investigation of such firearm or weapon is required through the Department of Justice (DOJ) or other sources, the officer shall detail those facts and circumstances in

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a crime/incident report and submit to Records Bureau in a red folder. The Watch Commander shall make a notation summarizing the facts and circumstances related to the firearm on the Patrol Sergeant's Shift Report. A copy of the report shall be forwarded to the Detective Bureau as soon as practicable. The Detective Bureau supervisor shall, within five days of the seizure, notify the owner or other person who was in lawful possession of the firearm or weapon that such firearm or weapon will be retained for up to 60 days of the seizure.

- (c) If, after 45 days, the Department has been unable to clear the firearm or other deadly weapon for release, the Detective Bureau supervisor shall commence the process of preparing a petition to the Superior Court to determine if the firearm or other weapon should be returned. Such petition shall be filed within 60 days of the initial seizure or upon timely application to the court for an extension within no more than 90 days.
- (d) Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the Department of Justice (DOJ) which conforms to the provisions of Penal Code § 33865.
- (e) The Department is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

333.5 VICTIM ASSISTANCE

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected:

- (a) Victims should be provided with the department's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (b) Victims should also be alerted to any available victim advocates, shelters, and community resources.
- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complaints of pain, officers should seek medical assistance as soon as practicable.
- (e) Officers should ask the victim whether the victim has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for the victim's safety or if the officer determines that a need exists.
- (f) Officers should make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, officers should seek or assist the victim in obtaining an emergency order if appropriate.

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

333.6 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.

333.7 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).

333.8 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.

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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.

333.8.1 PROOF OF SERVICE NOT VERIFIED

When the officer verifies that a restraining order exists but cannot verify proof of service or prior knowledge of the order by the suspect, the officer shall perform the following:

- (a) At the request of the complainant and upon presentation of an endorsed copy of the restraining order and a proof of service form (DV-200), serve a copy of the order on the suspect. Submit the completed proof of service form to the Records Bureau for forwarding to the court, regardless of whether or not the suspect is taken into custody (Code of Civil Procedure § 527.8(i)(2)). Proof of Service forms are available in debriefing.
- (b) Immediately inform the suspect of the terms of the court order and place the suspect on notice that violation of the court order will result in arrest
- (c) Obtain the suspect's address
- (d) Enforce the court order, but do not make an arrest for any violation of the order occurring prior to verified proof of service or before an officer's admonition of the terms of the order. If the suspect continues to violate the order after being advised of the terms, an arrest should be made (Code of Civil Procedure § 527.8(i)(4)).

If the suspect complies with the order, the officer shall complete a police report detailing the specific terms of the order and advisement, the name of the advising officer, and the date and time of the advisement (Penal Code § 13730(c)). A copy of the proof of service form shall be attached to the Department copy of the restraining order located in Dispatch (if any) and with the police report.

333.8.2 WHEN ORDERS ARE NOT VERIFIABLE

When a victim is not in possession of the restraining order and no computer record is found, officers may not be able to confirm the order's validity and shall take the following action:

- (a) Write a crime report and give the police report number to the victim (Penal Code § 13730(c)).
- (b) Inform the victim of the right to make a private person's arrest for the appropriate violation.

In domestic violence cases where the suspect has left the scene, an investigation should be conducted to determine if a crime has been committed. In such circumstances a crime report shall be completed and the victim shall be informed of the case number and the follow-up criminal procedure (Penal Code §§ 13730(c) and 13701(c)).

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333.8.3 EMERGENCY PROTECTIVE ORDERS

- (a) Family Code § 6241 mandates the Superior Court to provide a judge, commissioner, or referee to hear applications and issue Emergency Protective Orders based on criteria outlined in Family Code § 6250(c). A judicial officer may issue an Emergency Protective Order whenever a law enforcement officer asserts reasonable grounds that:
 - 1. A person is in immediate and present danger of domestic violence based upon the person's allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought.
 - 2. A child is in immediate and present danger of abuse by a family or household member, based on an allegation of a recent incident of abuse or threat of abuse by the family or household member.
 - 3. A child is in immediate and present danger of being abducted by a parent or relative, based on a reasonable belief that a person has intent to abduct a child or flee with the child from the jurisdiction or based on an allegation of a reasonable threat to abduct the child or flee with the child from the jurisdiction.
 - 4. An elder or dependent adult is in immediate and present danger of abuse as defined in Welfare and Institutions Code § 15610.07 based on an allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought, except that no emergency protective order shall be issued based solely on an allegation of financial abuse.
- (b) Under Penal Code § 646.91, a peace officer may also obtain an Emergency Protective Order when the officer has reasonable grounds to believe that a person or the person's immediate family is in immediate and present danger of being stalked.
 - 1. Any such Emergency Protective Order shall be reduced to writing, signed by the officer and include all of the information required by Penal Code § 646.91(c).
 - 2. Any officer seeking such an order shall serve the order on the restrained person if such person can be reasonably located and shall provide the person protected with a copy of the order. A copy of the order shall also be filed with the court as soon as practicable after issuance.
 - 3. Any officer requesting such an order shall carry copies of the order while on duty and shall use every reasonable means to enforce the order.
- (c) Emergency Protective Orders may be obtained by telephone to prohibit a suspect who resides with a complainant, regardless of their marital status or relationship from:
 - 1. Physically or verbally contacting the victim or disturbing his/her peace.
 - 2. Remaining or returning to the victim's residence, regardless of who holds legal title to, or leases the residence.

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3. Continuing a specified behavior as described in the order.
- (d) Officers investigating the scene of current or recent situations of domestic violence should remain cognizant of the potential for continued and escalated violence. An Emergency Protective Order should be sought if there is reason to believe, based on factual evidence such as a recent history of violence that the victim may still be in danger.
- (e) Officers should consider requesting an EPO if any of the following conditions exist:
 1. The victim requests an EPO.
 2. The investigating officer has grounds to believe that there is an immediate danger of continuing violence against the victim.
 3. The investigating officer or victim believes that the suspect may be able to make bail and the potential for further violence exists.

333.9 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following:

- (a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
 1. Officers are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the officer makes the arrest as soon as probable cause arises (Penal Code § 836).
- (b) An officer responding to a domestic violence call who cannot make an arrest will advise the victim of the victim's right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Officers shall not dissuade victims from making a lawful private person's arrest. Officers should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
- (c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
 1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
 2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
 3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
 4. Penal Code § 646.9 (stalking)

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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).

333.10 REPORTS AND RECORDS

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

333.11 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.

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333.12 SERVICE OF COURT ORDERS

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

333.13 PUBLIC ACCESS TO POLICY

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

333.14 DECLARATION IN SUPPORT OF BAIL INCREASE

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

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333.15 DOMESTIC VIOLENCE DEATH REVIEW TEAM

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

Automated External Defibrillator (AED)

334.1 PURPOSE AND SCOPE

This policy establishes procedures for the proper use, maintenance, and deployment of automated external defibrillators. "Automated External Defibrillator" (AED) means an external defibrillator capable of cardiac rhythm analysis, which will charge and deliver a shock either automatically or by user interaction after electronically detecting and assessing ventricular fibrillation or rapid ventricular tachycardia. As an AED service provider, it is the intent of the Montclair Police Department to make AEDs available to first responders to treat members of the public who suffer sudden cardiac arrest.

Two AED units are mounted in the police facility. It is the intent of the Department to make these units available for use by "lay-rescuers". A lay rescuer is defined as any person not otherwise licensed or certified to use the automated external defibrillator. Members of the Department who meet this definition may utilize the AED device, but must follow the procedures outlined in the *Medical Emergency Response Plan/AED Use in the Police Facility*.

All members of the Department will be provided with access to brochures, which describe the proper use of an AED device. Similar documents will be posted next to the AED units mounted in the police facility.

334.2 AED PROGRAM MANAGER

The Support Services Lieutenant shall be responsible for implementation and management of the AED program.

334.3 AED PROGRAM PHYSICIAN MEDICAL DIRECTOR

The following licensed physician shall act as the Medical Director of the AED Program:

Dr. James Lally

California Medical License #20A6259

Montclair Community Health Center

5050 San Bernardino Street, Montclair, CA 91763

Phone (Cell) 909 721-6100

334.4 LOCAL EMERGENCY MEDICAL SERVICES AGENCY

The Inland Counties Emergency Medical Agency (ICEMA) provides guidance to assist organizations in the implementation of Public Safety and Lay Rescuer automated external defibrillator programs within the ICEMA region. Organizations implementing an AED program are required to:

- (a) Become familiar and comply with California AED applicable regulations and statutes.
- (b) Complete and submit to ICEMA a Notification of Defibrillator Site form listing each AED unit being deployed in the ICEMA region.

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- (c) Re-submit a Notification of Defibrillator Site form if any of the information becomes outdated (i.e., the AED is moved to a different location, a new AED is purchased, etc.).
- (d) Every time an AED is used, complete a Montclair Police Department AED Use Form, and submit via fax to ICEMA at (909) 388-5825, within 24 hours of use.

334.5 TRAINING REQUIREMENTS FOR EXPECTED USERS

For the purpose of this Department's policy, expected AED users are defined as regular and reserve peace officers except those whose duties are primarily clerical or administrative (90%).

An expected AED user 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). The training courses consist of instruction in cardiopulmonary resuscitation and AED use that complies with regulations adopted by the Emergency Medical Services (EMS) Authority and the standards of the American Heart Association or the American Red Cross. Initial training for the AED shall consist of not less than four (4) hours and shall include a written and skills examination. AED refresher training, minimally consisting of a skills demonstration, should be provided in conjunction with biannual first aid/CPR training. Newly hired peace officers should receive training within one year of the service start date.

The Support Services Lieutenant 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 Support Services Lieutenant 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).

Nothing in this policy prohibits the use of an AED by a layperson or non-sworn member of the Department's professional staff.

334.6 PLACEMENT OF AED UNITS

The Department has acquired seven (7) LIFEPAK 1000 AED units. The units have been placed as follows:

- Police facility atrium (wall-mounted)
- Police facility jail (wall-mounted)
- Watch Commander Patrol units (2)
- Patrol units (3). These Patrol units may be marked as "AED" equipped.

Members driving units equipped with AEDs should respond to calls for service involving medical emergencies where the AED may be necessary. Members involved in the service of search/arrest warrants or other tactical operations should ensure that an AED is available for rapid deployment.

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334.7 AED INSPECTION/MAINTENANCE

The AED must be checked for readiness at least once every 30 days and after each use. Technical Services Division shall designate a cadet to conduct monthly inspections of all AEDs. When notified of the use of an AED on a patient, the cadet shall inspect the AED utilized. The inspections should include:

- Complete User's Checklist
- Complete a self-test
- Inspect AED utilizing the Inspection Form
- Clean AED
- Check that all necessary supplies and accessories are present
- Check "use by" date on electrode packet

The cadet shall notify the Technical Services Specialist of any AEDs that require supplies or service. AEDs that fail to pass inspection should be removed from service as soon as practical. Records of these periodic checks shall be maintained by the Technical Services Division.

334.8 AED SELF-TEST PROCEDURE

Each time the AED is turned on, it performs internal self-tests to check that the internal electrical components and circuits work properly. When the defibrillator is on and a problem requires immediate service, the message **CALL SERVICE** is displayed. The service symbol will remain visible until the problem is corrected. Attempt to use the AED if needed for an emergency; otherwise, remove the AED from active use and notify Technical Services Division.

334.9 USE OF AED BY FIELD PERSONNEL/OUTSIDE THE POLICE FACILITY

As part of their patrol duties, Montclair Police Officers respond to medical emergency calls involving community members who are suffering from cardiac arrest. Being mobile in a patrol vehicle often allows officers to arrive at a medical call prior to fire personnel. The availability of AEDs to police personnel decreases the time before a life-saving defibrillation is administered, increasing the chance of a patient's survival. 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 Technical Services Supervisor who is responsible for ensuring appropriate maintenance. Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer. Any member who uses an AED should contact Dispatch as soon as possible and request response by EMS.

The AED may be utilized by members when, after evaluating a patient, their training leads them to believe the patient is suffering from cardiac arrest. During a medical emergency in the field, members should do the following:

- Advise Dispatch to request response by Montclair Fire Department and EMS personnel

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- Request the nearest AED equipped unit and an authorized AED user to respond to the scene
- The AED may be utilized by members when, after evaluating a patient, their training leads them to believe the patient is suffering from cardiac arrest.
- An AED is only to be applied to victims who are unconscious, not breathing normally and showing no signs of circulation, such as normal breathing, coughing, and movement.
- Expected AED users shall use the AED unit according to certified training.

334.10 USE OF AED AT THE POLICE FACILITY

Members who utilize the AED during a medical emergency in or around the police facility should adhere to the following guidelines contained in the *Medical Emergency Response Plan/AED Use at Police Facility*:

- If a victim is unresponsive, contact Police Dispatch via an internal phone line (ext. 490 or 491), police radio, or call "9-1-1". Provide Dispatch with the exact location of the victim.
- Advise Dispatch to contact Montclair Fire Department to summon EMS personnel. EMS personnel should be provided with the most direct route into the facility to the victim.
- Dispatch should use the public address system to announce that a medical emergency requiring an AED is occurring along with the exact location. AED trained personnel in the police facility should respond.
- Locate the nearest AED unit and summon an authorized AED user to the scene. Most sworn members are authorized to use the AED. Follow the AED use instructions located with the AED unit.
- The AED may be utilized by members when, after evaluating a patient, their training leads them to believe the patient is suffering from cardiac arrest.
- An AED is only to be applied to victims who are unconscious, not breathing normally and showing no signs of circulation, such as normal breathing, coughing, and movement.

334.11 POST-INCIDENT PROCEDURES

A member utilizing an AED during a medical emergency shall complete a Montclair Police Department AED Use Form. The member shall ensure that the form is faxed to the Inland Counties Emergency Medical Agency (ICEMA) within 24-hours of the incident. The original copy of the form shall be forwarded to and maintained by the Support Services Lieutenant. A copy of the form shall be forwarded to the Technical Services Division by the member completing the form.

The member should take reasonable steps to place the AED back into service by conducting an inspection of the unit and replenishing supplies. Technical Services Division shall be notified of

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the use of an AED, including the AED number, as soon as practical. The designated AED cadet shall inspect the unit, replenish supplies, and place the unit back into service.

Chaplains

335.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Montclair Police Department chaplains to provide counseling or emotional support to members of the Department, their families and members of the public.

335.2 POLICY

The Montclair Police Department shall ensure that department chaplains are properly appointed, trained and supervised to carry out their responsibilities without financial compensation.

335.3 ELIGIBILITY

Requirements for participation as a chaplain for the Department may include, but are not limited to:

- (a) Being above reproach, temperate, prudent, respectable, hospitable, able to teach, be free from addiction to alcohol or other drugs, and excessive debt.
- (b) Managing their households, families and personal affairs well.
- (c) Having a good reputation in the community.
- (d) Successful completion of an appropriate-level background investigation.
- (e) A minimum of five years of successful counseling experience.
- (f) Possession of a valid driver license.

The Chief of Police may apply exceptions for eligibility based on organizational needs and the qualifications of the individual.

335.4 RECRUITMENT, SELECTION AND APPOINTMENT

The Montclair Police Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral and professional standards set forth by this department.

All applicants shall be required to meet and pass the same pre-employment procedures as department personnel before appointment.

335.4.1 SELECTION AND APPOINTMENT

Chaplain candidates shall successfully complete the following process prior to appointment as a chaplain:

- (a) Submit the appropriate written application.
- (b) Include a recommendation from employers or volunteer programs.
- (c) Interview with the Chief of Police and the chaplain coordinator.
- (d) Successfully complete an appropriate-level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief of Police.

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Chaplains are volunteers and serve at the discretion of the Chief of Police. Chaplains shall have no property interest in continued appointment. However, if a chaplain is removed for alleged misconduct, the chaplain will be afforded an opportunity solely to clear his/her name through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

335.5 IDENTIFICATION AND UNIFORMS

As representatives of the Department, chaplains are responsible for presenting a professional image to the community. Chaplains shall dress appropriately for the conditions and performance of their duties. Uniforms and necessary safety equipment will be provided for each chaplain. Identification symbols worn by chaplains shall be different and distinct from those worn by officers through the inclusion of "Chaplain" on the uniform and not reflect any religious affiliation.

Chaplains will be issued Montclair Police Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard Montclair Police Department identification cards, with the exception that "Chaplain" will be indicated on the cards. Chaplains shall be required to return any issued uniforms or department property at the termination of service.

Chaplains shall conform to all uniform regulations and appearance standards of this department.

335.6 CHAPLAIN COORDINATOR

The Chief of Police shall delegate certain responsibilities to a chaplain coordinator. The coordinator shall be appointed by and directly responsible to the Administration Lieutenant or the authorized designee.

The chaplain coordinator shall serve as the liaison between the chaplains and the Chief of Police. The function of the coordinator is to provide a central coordinating point for effective chaplain management within the Department, and to direct and assist efforts to jointly provide more productive chaplain services. Under the general direction of the Chief of Police or the authorized designee, chaplains shall report to the chaplain coordinator and/or Watch Commander.

The chaplain coordinator may appoint a senior chaplain or other designee to assist in the coordination of chaplains and their activities.

The responsibilities of the coordinator or the authorized designee include, but are not limited to:

- (a) Recruiting, selecting and training qualified chaplains.
- (b) Conducting chaplain meetings.
- (c) Establishing and maintaining a chaplain callout roster.
- (d) Maintaining records for each chaplain.
- (e) Tracking and evaluating the contribution of chaplains.
- (f) Maintaining a record of chaplain schedules and work hours.
- (g) Completing and disseminating, as appropriate, all necessary paperwork and information.

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- (h) Planning periodic recognition events.
- (i) Maintaining liaison with other agency chaplain coordinators.

An evaluation of the overall use of chaplains will be conducted on an annual basis by the coordinator.

335.7 DUTIES AND RESPONSIBILITIES

Chaplains assist the Department, its members and the community, as needed. Assignments of chaplains will usually be to augment the Field Services Division . Chaplains may be assigned to other areas within the Department as needed. Chaplains should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

All chaplains will be assigned to duties by the chaplain coordinator or the authorized designee.

Chaplains may not proselytize or attempt to recruit members of the Department or the public into a religious affiliation while representing themselves as chaplains with this department. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or any subsequent actions or follow-up contacts that were provided while functioning as a chaplain for the Montclair Police Department.

335.7.1 COMPLIANCE

Chaplains are volunteer members of this department, and except as otherwise specified within this policy, are required to comply with the Volunteer Program Policy and other applicable policies.

335.7.2 OPERATIONAL GUIDELINES

- (a) Chaplains may be scheduled to be on-call in certain circumstances..
- (b) Generally, each chaplain will serve with Montclair Police Department personnel a minimum of eight hours per month.
- (c) At the end of each watch the chaplain will complete a chaplain shift report and submit it to the Chief of Police or the authorized designee.
- (d) Chaplains shall be permitted to ride with officers during any shift and observe Montclair Police Department operations, provided the Watch Commander has been notified and has approved the activity.
- (e) Chaplains shall not be evaluators of members of the Department.
- (f) In responding to incidents, a chaplain shall never function as an officer.
- (g) When responding to in-progress calls for service, chaplains may be required to stand-by in a secure area until the situation has been deemed safe.
- (h) Chaplains shall serve only within the jurisdiction of the Montclair Police Department unless otherwise authorized by the Chief of Police or the authorized designee.
- (i) Each chaplain shall have access to current department member rosters, addresses, telephone numbers, duty assignments and other information that may assist in his/

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her duties. Such information will be considered confidential and each chaplain will exercise appropriate security measures to prevent distribution of the data.

335.7.3 ASSISTING DEPARTMENT MEMBERS

The responsibilities of a chaplain related to department members include, but are not limited to:

- (a) Assisting in making notification to families of members who have been seriously injured or killed and, after notification, responding to the hospital or home of the member.
- (b) Visiting sick or injured members in the hospital or at home.
- (c) Attending and participating, when requested, in funerals of active or retired members.
- (d) Serving as a resource for members when dealing with the public in incidents, such as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse and other such situations that may arise.
- (e) Providing counseling and support for members and their families.
- (f) Being alert to the needs of members and their families.

335.7.4 ASSISTING THE DEPARTMENT

The responsibilities of a chaplain related to this department include, but are not limited to:

- (a) Assisting members in the diffusion of a conflict or incident, when requested.
- (b) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or supervisor aids in accomplishing the mission of the Department.
- (c) Responding to all major disasters, such as natural disasters, bombings and similar critical incidents.
- (d) Being on-call and, if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department members.
- (e) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (f) Participating in in-service training classes.
- (g) Willingness to train others to enhance the effectiveness of the Department.

335.7.5 ASSISTING THE COMMUNITY

The duties of a chaplain related to the community include, but are not limited to:

- (a) Fostering familiarity with the role of law enforcement in the community.
- (b) Providing an additional link between the community, other chaplain coordinators and the Department.
- (c) Providing liaison with various civic, business and religious organizations.
- (d) Promptly facilitating requests for representatives or leaders of various denominations.
- (e) Assisting the community in any other function as needed or requested.

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- (f) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

335.7.6 CHAPLAIN MEETINGS

All chaplains are required to attend scheduled meetings. Any absences must be satisfactorily explained to the chaplain coordinator.

335.8 PRIVILEGED COMMUNICATIONS

No person who provides chaplain services to members of the Department may work or volunteer for the Montclair Police Department in any capacity other than that of chaplain.

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent, psychotherapist-patient and other potentially applicable privileges and shall inform members when it appears reasonably likely that the member is discussing matters that are not subject to privileged communications. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

No chaplain shall provide counsel to or receive confidential communications from any Montclair Police Department member concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

335.9 TRAINING

The Department will establish training and standards for department chaplains. The training, as approved by the Support Services Lieutenant, may include:

- Stress management
- Death notifications
- Symptoms of post-traumatic stress
- Burnout for members of law enforcement and chaplains
- Legal liability and confidentiality
- Ethics
- Responding to crisis situations
- The law enforcement family
- Substance abuse
- Suicide
- Officer injury or death
- Sensitivity and diversity

Child and Dependent Adult Safety

336.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Senior and Disability Victimization policies.

336.2 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 Montclair 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.

336.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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336.3.1 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.

336.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

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If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

336.3.3 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

336.3.4 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.

336.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

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Child and Dependent Adult Safety

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

336.5 TRAINING

The Support Services Lieutenant 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).

Volunteer Program

337.1 PURPOSE AND SCOPE

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase department responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

337.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, unpaid reserve officers, interns, persons providing administrative support and youth involved in a law enforcement Explorer Post, among others.

337.2 VOLUNTEER MANAGEMENT

337.2.1 VOLUNTEER COORDINATOR

The Volunteer Coordinator shall be appointed by the Administration Lieutenant. The function of the Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions.

The Volunteer Coordinator, or his/her designee, shall be responsible for the following:

- (a) Recruiting, selecting and training qualified volunteers for various positions.
- (b) Facilitating the implementation of new volunteer activities and assignments.
- (c) Maintaining records for each volunteer.
- (d) Tracking and evaluating the contribution of volunteers.
- (e) Maintaining the volunteer handbook and outlining expectations, policies and responsibilities for all volunteers.
- (f) Maintaining a record of volunteer schedules and work hours.
- (g) Completion and dissemination as appropriate of all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Administering discipline when warranted.

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- (j) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

337.2.2 RECRUITMENT

Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in, and an ability to assist the Department in serving the public.

Requests for volunteers should be submitted in writing by interested staff to the Volunteer Coordinator through the requester's immediate supervisor. A complete position description and a requested time-frame should be included in the request. All parties should understand that the recruitment of volunteers is enhanced by creative and interesting assignments. The Volunteer Coordinator may withhold assignment of any volunteer until such time as the requesting unit is prepared to make effective use of volunteer resources.

337.2.3 SCREENING

All prospective volunteers should complete the volunteer application form. The Volunteer Coordinator or designee should conduct a face-to-face interview with an applicant under consideration.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

- (a) Traffic and criminal background check. Fingerprints shall be obtained from all applicants and processed through the California Criminal Information Index.
- (b) Employment
- (c) References
- (d) Credit check

A polygraph exam may be required of each applicant depending on the type of assignment.

337.2.4 SELECTION AND PLACEMENT

Service as a volunteer with the Department shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Department, who will normally be the Volunteer Coordinator. No volunteer should begin any assignment until they have been officially accepted for that position and completed all required screening and paperwork. At the time of final acceptance, each volunteer should complete all required enrollment paperwork and will receive a copy of their position description and agreement of service with the Department. All volunteers shall receive a copy of the volunteer handbook and shall be required to sign a volunteer agreement.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

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337.2.5 TRAINING

Volunteers will be provided with an orientation program to acquaint them with the Department, personnel, policies and procedures that have a direct impact on their work assignment.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor or the Volunteer Coordinator.

Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Department.

337.2.6 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

- (a) Driver license
- (b) Medical condition
- (c) Arrests
- (d) Criminal investigations

All volunteers shall adhere to the guidelines set forth by this department regarding drug and alcohol use.

337.2.7 DRESS CODE

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

Volunteers shall conform to department-approved dress consistent with their duty assignment. Uniforms authorized for volunteers should be readily distinguishable from those worn by sworn officers. The uniform or identifiable parts of the uniform shall not be worn while off-duty except volunteers may choose to wear the uniform while in transit to or from official department assignments or functions provided an outer garment is worn over the uniform shirt so as not to bring attention to the volunteer while he/she is off duty.

Volunteers shall be required to return any issued uniform or department property at the termination of service.

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337.3 SUPERVISION OF VOLUNTEERS

Each volunteer who is accepted to a position with the Department must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as and act as a supervisor of other volunteers provided that the supervising volunteer is under the direct supervision of a paid staff member.

Functional supervision of volunteers is the responsibility of the supervisor in charge of the unit where the volunteer is assigned. Following are some considerations to keep in mind while supervising volunteers:

- (a) Take the time to introduce volunteers to employees on all levels.
- (b) Ensure volunteers have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

337.4 CONFIDENTIALITY

With appropriate security clearance, volunteers may have access to confidential information such as criminal histories or investigative files. Unless otherwise directed by a supervisor or department policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by department policy and supervisory personnel.

Each volunteer will be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

337.5 PROPERTY AND EQUIPMENT

Volunteers will be issued an identification card that must be worn at all times while on-duty. Any fixed and portable equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

337.5.1 VEHICLE USE

Volunteers assigned to duties such as vacation house checks or other assignments that require the use of a vehicle must first complete the following:

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- (a) A driving safety briefing and department approved driver safety course.
- (b) Verification that the volunteer possesses a valid California Driver License.
- (c) Verification that the volunteer carries current vehicle insurance.

The Volunteer Coordinator should insure that all volunteers receive safety briefing updates and license and insurance verification at least once a year.

When operating a Department vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited in all Department vehicles.

Volunteers should not operate a marked patrol car unless there is a prominently placed sign indicating that it is out of service and are not authorized to operate a Department vehicle Code-3.

337.5.2 RADIO AND MDC USAGE

Volunteers shall successfully complete CLETS and radio procedures training prior to using the police radio or MDC and comply with all related provisions. The Volunteer Coordinator should ensure that radio and CLETS training is provided for volunteers whenever necessary.

337.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief of Police or the Volunteer Coordinator. Volunteers shall have no property interests in their continued appointment. However, if a volunteer is removed for alleged misconduct, the volunteer will be afforded an opportunity solely to clear his/her name through a liberty interest hearing which shall be limited to a single appearance before the Chief of Police or authorized designee.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

337.6.1 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

337.7 EVALUATION

An evaluation of the overall volunteer program will be conducted on an annual basis by the Volunteer Coordinator. Regular evaluations should be conducted with volunteers to ensure the best use of human resources available, to ensure personnel problems can be identified and dealt with promptly and fairly, and to ensure optimum satisfaction on the part of volunteers.

Service Animals

338.1 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).

338.1.1 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)).

338.2 POLICY

It is the policy of the Montclair 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.

338.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.
- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with

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schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

338.4 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 Montclair Police Department affords to all members of the public (28 CFR 35.136).

338.4.1 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.

338.4.2 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.

338.4.3 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.

338.4.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany

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their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

SMASH Team

339.1 PURPOSE AND SCOPE

San Bernardino Movement Against Street Hoodlums (S.M.A.S.H.) is a program established by law enforcement agencies throughout San Bernardino County for the purpose of addressing street crime occurring in this county. This is accomplished through saturation patrol in a hosting city using officers from agencies within San Bernardino County.

339.1.1 OPERATIONS

The S.M.A.S.H. Memorandum of Understanding (MOU) between San Bernardino County law enforcement agencies establishes policies and procedures to be followed while participating in S.M.A.S.H. programs. Topics covered include, but are not limited to handling of citizen complaints, motor vehicle accidents, officer involved shootings, tactical response, and uniforms. Members of this department participating in S.M.A.S.H. programs shall review and adhere to policies and procedures contained in the MOU. Copies of the MOU are maintained in the offices of the Watch Commander, Detective Bureau Sergeant, and Support Services Lieutenant.

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 Montclair 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 badge and identification.

Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the officer's senses or judgment.

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.
- (c) The lack of equipment, such as handcuffs, OC or baton.

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- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

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 Montclair 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 NON-SWORN RESPONSIBILITIES

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

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.

Montclair Municipal Code

341.1 PURPOSE AND SCOPE

Sections of the Montclair Municipal Code may be enforced by members of the Montclair Police Department.

341.1.1 ENFORCEMENT

A violation of the Montclair Municipal Code may be enforced as an infraction or misdemeanor unless the violation is specifically classified as an infraction by the Montclair Municipal Code, any ordinance of the City, or any Code or law of the State. If a Montclair Municipal Code violation is enforced as an infraction, a notice to appear citation is required. If the violation is enforced as a misdemeanor, an arrest report is required. The case shall be referred to the City Prosecutor rather than the District Attorney's Office.

341.1.2 ADMINISTRATIVE CITATIONS

Montclair Municipal Code violations may be enforced as administrative violations by the issuance of an administrative citation. Administrative citations are routinely issued by Code Enforcement officers and may also be issued by police officers when appropriate (e.g., overweight commercial truck violations, Fourth of July fireworks detail).

Administrative citation books are maintained and issued by Code Enforcement. A small number of administrative citation books are issued to the Police Department and are stored in the Records Bureau.

Administrative citations issued by police officers are processed by the Police Department Citation Clerk. The original citation is forwarded to the Finance Department for retention and monitoring of payment status. The agency copy of the citation is filed by citation number in the Records Bureau. No computer data entry is done on administrative citations, therefore the citation information is not searchable in the Records Management System.

Persons cited for administrative violations are required to pay an established fine. Payment plans are available upon request and may be arranged by contacting the Finance Department.

Persons cited for administrative violations who want to appeal the citation may do so according to the procedures established in Montclair Municipal Code § 1.04.050. Request for Administrative Hearing (Appeal) forms are available for this purpose from the Finance Department. The form must be turned in to the Finance Department within 15 calendar days from the date of the administrative citation. The form is then forwarded to the Police Department Records Supervisor to schedule the hearing.

The Hearing Officer for administrative citations issued by police officers is the City Engineer. Hearings are scheduled for the first Monday of the month, beginning at 9:00 a.m. and at 30-minute intervals. No more than four hearings are scheduled for any hearing date. Hearings are held in the City Hall Conference Room. The Hearing Officer provides the hearing decision by mail. Those who are not satisfied with the hearing decision may exercise the right to judicial review in civil

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court by filing an appeal with the San Bernardino County Superior Court within 30 days of the mail date of the Hearing Officer's decision.

Warrant Due Diligence

342.1 PURPOSE AND SCOPE

The purpose of this section is to identify due diligence responsibilities.

342.1.1 DUE DILIGENCE RESPONSIBILITIES

When the Department receives requests for attempted warrant service, usually in the form of a Warrant Information Sheet or a teletype, the due diligence in attempting to serve the warrant is required to be documented and a response sent back to the originating agency.

Requests for attempted warrant service on felony warrants are forwarded to Dispatch for entry as a call for service. The dispatcher will obtain confirmation the warrant is active and run the subject through the various CLETS data bases, including driver's license, criminal history, and Cal-Photo for the patrol officer who will be dispatched to attempt service. If the warrant is no longer active, the dispatcher is required to note "No longer active" along with the date and his/her name on the document and return it to the Records Bureau. San Bernardino County Sheriff's Department warrants with a bail under \$1,500 are generally not entered into the Wanted Persons System (WPS), thereby requiring a telephone call to Control to confirm whether the warrant is active.

Requests for attempted warrant service on misdemeanor warrants are forwarded to the Special Enforcement Team (SET) supervisor for attempted service at a later time.

The officer attempting service is required to document the attempted service on the Warrant Information Sheet or teletype. The documentation is to include the officer name, date and time of attempted service, and end result (e.g., vacant, moved, no such address). If the subject was arrested, the documentation should indicate an arrest was made and the case number. If the subject was not home at the time of the attempted warrant service, the call for service should remain open and the Warrant Information Sheet should be returned to the Watch Commander at the end of watch. Additional attempts should be made during subsequent shifts. The Warrant Information Sheet or teletype is to be turned in to the Records Bureau for processing.

Records Bureau personnel are responsible for ensuring the due diligence notations were made by the officer who attempted service and forwarding the documentation back to the originating agency. In the case of a Warrant Information Sheet, the sheet is to be mailed back to the originating agency. In the case of a teletype request for attempted warrant service, a return teletype shall be sent to the requesting agency and both teletypes retained on the warrant service clipboard. The teletypes are to be retained according to the Department Policy for the Retention and Destruction of Records.

Gun Violence Restraining Orders

343.1 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).

343.1.1 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).

343.2 POLICY

It is the policy of the Montclair Police Department to petition for and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Department pursuant to such orders.

343.3 GUN VIOLENCE RESTRAINING ORDER COORDINATOR

The Chief of Police will appoint a gun violence restraining order coordinator. The responsibilities of the coordinator include:

- (a) Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by department members, also including procedures for requesting and serving (Penal Code § 18108):
 - 1. A temporary emergency gun violence restraining order.
 - 2. An ex parte gun violence restraining order.
 - 3. A gun violence restraining order issued after notice and hearing.
- (b) Developing and maintaining factors to consider when assessing the need to seek an order, including:
 - 1. Whether threats have been made, and if so, whether the threats are credible and specific.
 - 2. Whether the potential victim is within close proximity.
 - 3. Whether the person has expressed suicidal tendencies.
 - 4. Whether the person has access to firearms.
 - 5. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored release.
 - 6. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.

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7. Any upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
8. Whether the person has any history of drug or alcohol abuse.
- (c) Developing and maintaining procedures for the receipt and service of orders consistent with the requirements of Penal Code § 18115; Penal Code § 18120; Penal Code § 18135; Penal Code § 18140; and Penal Code § 18160. Procedures should include:
 1. Evaluation of an order to determine appropriate service and necessary precautions (see the Warrant Service Policy and the Operations Planning and Deconfliction Policy).
 2. Forwarding orders to the Records Supervisor for recording in appropriate databases and required notice to the court, as applicable.
 3. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate (Penal Code § 18108).
 4. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
 5. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order.
- (d) Coordinating with the Support Services Lieutenant 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).

343.4 GUN VIOLENCE RESTRAINING ORDERS

An officer who reasonably believes a person is a present danger to self or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from the officer's supervisor to petition the court for a gun violence restraining order.

Officers petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types, and locations of any firearms and ammunition that the officer believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or

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inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an officer may submit the petition electronically or orally request a temporary order (Penal Code § 18122; Penal Code § 18140).

343.4.1 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).

343.5 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.

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All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

343.5.1 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.

343.6 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.

343.7 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).

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- (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).

343.8 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.

343.9 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.

343.10 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).

343.11 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).

343.12 TRAINING

The Support Services Lieutenant should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

Native American Graves Protection and Repatriation

344.1 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.).

344.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

Funerary objects - Objects that, as part of the death rite or ceremony of a Native American culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects are either associated funerary objects or unassociated funerary objects.

Associated funerary objects are any funerary objects related to removed human remains, where the location of the human remains is known. This includes objects that were made exclusively for burial purposes or to contain human remains, regardless of the physical location or existence of any related human remains.

Unassociated funerary objects are any other funerary objects that are identified by a preponderance of the evidence such as:

- Related to human remains but the remains were not removed, or the location of the remains is unknown.
- Related to specific individuals or families.
- Removed from specific burial sites with Native American cultural affiliation.
- Removed from an area where such burial sites are known to have existed, but the site no longer exists.

Native American human remains - Any physical part of the body of a Native American individual.

Objects of cultural patrimony - Objects having ongoing historical, traditional, or cultural importance that is central to the Native American group or culture itself and, therefore, cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

Sacred objects - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

344.2 POLICY

It is the policy of the Montclair Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred

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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.

344.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.5).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.5):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - Coroner, when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

344.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.7).

Information Technology Use

345.1 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.

345.1.1 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 Montclair 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.

345.2 POLICY

It is the policy of the Montclair 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.

345.3 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.

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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).

345.4 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.

345.4.1 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 City-approved or installed programs by the original manufacturer, producer or developer of the software.

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

345.4.2 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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345.4.3 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.

345.4.4 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.

345.5 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.

345.6 INSPECTION OR REVIEW

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

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

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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.

Reserve Officers

346.1 PURPOSE AND SCOPE

The Montclair Police Department Reserve Unit was established to supplement and assist regular sworn police officers in their duties. This unit provides professional, sworn volunteer reserve officers who can augment regular staffing levels.

346.2 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS

The Montclair Police Department shall endeavor to recruit and appoint to the Reserve Unit only those applicants who meet the high ethical, moral and professional standards set forth by this department.

The Montclair Police Department shall endeavor to recruit and appoint to the Reserve Program only those applicants who meet high ethical, moral, and professional standards.

The Montclair Police Department Reserve Program may include three levels of reserve officer status.

Level III reserve police officers are those who have completed the POST academy requirements for Level III status in addition to 100 hours of field training with a field training officer. Generally, the Department will not have Level III reserve police officers. However, an individual with specialized knowledge and skills (e.g., photographer, attorney, computer technician) that would benefit the Department may be considered for a Level III position.

Level II reserve police officers are those who have completed the POST academy requirements for Level II status in addition to 200 hours of field training with a field training officer. At the completion of the 200 hours of field training, a Level II reserve officer may ride as a two-man patrol unit with a Level I reserve officer or a full-time police officer. Level II reserve officers may transport arrestees to the jail, perform traffic control, crowd control, and may work special functions or paid details without supervision of a full-time officer or Level I reserve officer. Level II reserve officers shall not be authorized to perform other general law enforcement duties unless accompanied by a Level I reserve officer or a full-time police officer.

Level I reserve police officers are those who have completed the POST academy requirements for Level I status in addition to the same number of field training hours with a field training officer as required for a full-time police officer. At the completion of the Field Training Officer Program, the Level I reserve police officer may perform general law enforcement duties as a solo officer.

346.2.1 PROCEDURE

All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

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Before appointment to the Police Reserve Unit, an applicant must have completed, or be in the process of completing, a POST approved academy.

346.2.2 APPOINTMENT

Applicants who are selected for appointment to the Police Reserve Unit shall, on the recommendation of the Chief of Police, be sworn in by the Chief of Police and take a loyalty oath to observe and obey all of the laws of the land and to carry out their duties to the best of their ability.

346.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS

Reserve police officers shall receive the agreed upon compensation for their assignment.

346.2.4 EMPLOYEES WORKING AS RESERVE OFFICERS

Qualified employees of this department, when authorized, may also serve as reserve officers. However, the Department must not utilize the services of a reserve or volunteer in such a way that it would violate employment laws or labor agreements (e.g., a Police Cadet working as a reserve officer for reduced or no pay). Therefore, the Reserve Coordinator should consult the Personnel Department prior to an employee serving in a reserve or volunteer capacity (29 CFR 553.30).

346.2.5 COURT APPEARANCE COMPENSATION

Criminal Cases - Reserve police officers shall be compensated for actual hours they are present on a court case, at the current hourly rate of "B"-step police officer pay.

Traffic Court - Reserve police officers shall be compensated at "B"-step for any appearance by receipt of at least two hours of pay. Should the time spent in court on traffic cases exceed two hours, the reserve police officer shall be compensated for actual hours at the current hourly rate of "B"-step police officer pay.

Reserve police officers must remain available to report at court within one hour of a call to appear.

346.2.6 VACATION MONTH (PAID LEAVE)

A vacation month may be afforded to a reserve police officer who meets the following minimum requirements:

- (a) A minimum two years of good standing as a reserve police officer with the Montclair Police Department
- (b) Only one vacation month per year will be allowed
- (c) A reserve police officer requesting a vacation month shall do so by submitting a memorandum to the Reserve Captain
- (d) The final decision to authorize a vacation month will be the right of the Reserve Captain

346.3 DUTIES OF RESERVE OFFICERS

Reserve officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of reserve officers will usually be to augment the Field

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Services Division. Reserve officers may be assigned to other areas within the Department as needed. Reserve officers are required to work a minimum of 25 hours per month.

346.3.1 POLICY COMPLIANCE

Police reserve officers shall be required to adhere to all department policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and he/she shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

346.3.2 RESERVE OFFICER ASSIGNMENTS

All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

346.3.3 RESERVE COORDINATOR

The Chief of Police shall delegate the responsibility for administering the Reserve Officer Program to a Reserve Coordinator.

The Reserve Coordinator shall have the responsibility of, but not be limited to:

- (a) Assignment of reserve personnel
- (b) Conducting reserve meetings
- (c) Establishing and maintaining a reserve call-out roster
- (d) Maintaining and ensuring performance evaluations are completed
- (e) Monitoring individual reserve officer performance
- (f) Monitoring overall Reserve Program
- (g) Maintaining liaison with other agency Reserve Coordinators

346.4 SUPERVISION OF RESERVE OFFICERS

Reserve officers who have attained the status of Level II shall be under the immediate supervision of a regular sworn officer (Penal Code 832.6). The immediate supervision requirement shall also continue for reserve officers who have attained Level I status unless special authorization is received from the Reserve Coordinator with the approval of the Lieutenant.

346.4.1 SPECIAL AUTHORIZATION REQUIREMENTS

Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Lieutenant, be relieved of the "immediate supervision" requirement. Level I reserve officers may function under the authority of Penal Code § 832.6(a)(1) only for the duration of the assignment or purpose for which the authorization was granted.

In the absence of the Reserve Coordinator and the Lieutenant, the Watch Commander may assign a certified Level I reserve officer to function under the authority of Penal Code § 832.6(a)(1) for specific purposes and duration.

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346.4.2 RESERVE OFFICER MEETINGS

All reserve officer meetings will be scheduled and conducted by the Reserve Coordinator. All reserve officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Reserve Coordinator.

346.4.3 IDENTIFICATION OF RESERVE OFFICERS

All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

346.4.4 UNIFORM

Reserve officers shall conform to all uniform regulation and appearance standards of this department.

346.4.5 INVESTIGATIONS AND COMPLAINTS

If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Field Services Lieutenant.

Reserve officers are considered at-will employees. Government Code § 3300 et seq. applies to reserve officers with the exception that the right to hearing is limited to the opportunity to clear their name.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

346.4.6 RESERVE OFFICER EVALUATIONS

While in training, reserve officers will be continuously evaluated using standardized daily and weekly observation reports. The reserve will be considered a trainee until all of the training phases have been completed. Reserves having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve.

346.5 FIREARMS REQUIREMENTS

Penal Code § 830.6(a)(1) designates a reserve officer as having peace officer powers during his/her assigned tour of duty, provided the reserve officer qualifies or falls within the provisions of Penal Code § 832.6. In addition, Reserve Officers with the Department are "qualified officers" within the requirements of 18 USC § 926B, The Law Enforcement Officers Safety Act (LEOSA).

346.5.1 CARRYING WEAPON ON DUTY

Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on-duty.

346.5.2 CONCEALED FIREARMS PROHIBITED

Notwithstanding any other provision of State Law or the restrictions set forth in 18 USC § 926B, Reserve Officers are issued an identification card in compliance with the requirements set forth in

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18 USC § 926B (d) identifying as a qualified law enforcement officer, authorizing concealed carry subject to the requirements therein. Reserve officers shall comply with all areas of the Firearms sections of this Policy Manual.

346.5.3 RESERVE OFFICER FIREARM TRAINING

All reserve officers are required to maintain proficiency with firearms used in the course of their assignments. Reserve officers shall comply with all areas of the firearms training section of the Policy Manual.

346.6 EMERGENCY CALL-OUT FOR RESERVE PERSONNEL

The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel.

346.7 RESERVE POLICE OFFICER RETIREMENT

Reserve police officers who have contributed 15 or more years to the City of Montclair, and has achieved a Level I Reserve Police Officer status may receive a retired reserve peace officer badge and identification card from the Montclair Police Department. The badge and identification card shall remain the property of the City of Montclair and may be recalled at any time by the Chief of Police.

Biological Samples

347.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples from those required to register, for example, sex offenders.

347.2 POLICY

The Montclair Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

347.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

- (a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.
- (b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.
- (c) An adult arrested or charged with any felony.

347.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

347.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use a DNA buccal swab collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

347.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only

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with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

347.5.1 VIDEO RECORDING

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule (15 CCR 1059).

347.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

347.6.1 DOCUMENTATION RELATED TO FORCE

The Watch Commander or the on-duty authorized designee shall prepare prior written authorization for the use of any force (15 CCR 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample, or impression and refused, as well as the related court order authorizing the force.

347.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

- (a) The California DOJ requests a blood sample and the subject consents, or
- (b) A court orders a blood sample following a refusal.

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)).

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347.6.3 LITIGATION

The Chief of Police or authorized designee should notify the California DOJ's DNA Legal Unit in the event this department 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.

Department Use of Social Media

348.1 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).

348.1.1 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.

Social Media Team (SMT) - The Social Media Team (SMT) operates under the direct control of the Chief of Police or his/her designee, and consists of a supervisor appointed by the Chief of Police and selected members of the Department. SMT members perform the core duties and provide and update content for the Department's social media platforms.

348.2 POLICY

The Montclair 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. All social media channels used by the Department shall be approved by the Chief of Police or his/her designee.

348.3 SOCIAL MEDIA TEAM

The Social Media Team (SMT) consists of a supervisor and selected members of the Department. Members that express an interest and exhibit proficiency in utilizing various social media platforms may be selected as members of the SMT. The SMT Supervisor is responsible for the creation, modification, and updates of the Department's Use of Social Media Policy. The SMT will be responsible for all aspects of the program, including but not limited to:

- Research, testing, and evaluation of current and new technologies related to the efficient administration of the Department's social media content.
- Assisting with the design, development, and implementation of all web-related content, such as assisting with the Department's website and social media channels.

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- Ensuring all written and visual material, including material written and submitted by non-members of the SMT, are reviewed prior to publishing to ensure uniformity and consistency.
- Acting as a liaison between the Department and business owners, residents, community leaders, and educational institutions for community relations related to social media.
- Publishing of information including, but not limited to: crime prevention tips, Department news, press-releases, photographs, and videos.
- Consulting and training Department members, as needed, on the safe use of social media as it pertains to law enforcement.
- Response to an EOC or similar Command Post activation as a source for social media monitoring or communications during a major event or emergency.

Assignment to the SMT is an ancillary duty. Members of the SMT are not required to manage the Department's social media channels while off-duty, unless directed to do so by the SMT Supervisor. In the event a member of the SMT is directed to monitor or complete an assignment related to the SMT, overtime and hours worked is compensated in conformance that individual member's MOU. Any overtime worked will be at the approval of a supervisor.

Social media platforms are in operation during all hours daily. Spontaneous publishing of comments, questions, concerns, or complaints can be posted on the Department's social media channels by the public at any time. These posts will be addressed by the SMT Supervisor or SMT members as soon as is reasonable and practical to do so. Information which constitutes an emergency shall be handled in accordance with the Incident-Specific Use Policy.

348.4 AUTHORIZED USERS

Only members of the Social Media Team who have been 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 shall be approved by the Social Media Team Supervisor prior to posting.

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

Being a member of the Social Media Team is an ancillary duty, with members being appointed by only the Chief of Police or his/her designee. Members may be removed from the team at the discretion of the Chief of Police. Any member of the Social Media Team who violates Departmental Policy may be removed. Upon removal or resignation from the Social Media Team, members are immediately prohibited from accessing the Department's accounts or posting on the Department's social media platforms on behalf of the Department. Sharing of any password or method of access

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to any of the Department's social media platforms is prohibited, unless authorized by the Chief of Police or his/her designee.

348.5 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.

348.5.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

348.6 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 Montclair 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.

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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.

348.6.1 PUBLIC POSTING ON DEPARTMENT SOCIAL MEDIA

Department social media sites shall be designed and maintained to prevent posting of content by the public.

The Department may provide a method for members of the public to contact department members directly, or provide commentary within the Department's Terms of Use on the Social Media Platform. Statements, when applicable, should be placed on social media channels by the SMT Supervisor which clearly indicate the following:

- The particular social media channel exists for people having an interest in the Montclair Police Department.
- The social media channel exists to provide information and a platform for people to interact with the Department
- Posting anything on the particular social media channel constitutes acceptance of the Terms of Service outlined on the social media platform
- Social media does not replace 9-1-1 for emergency services.
- The Department shall reserve the right to remove and/or block anyone who posts inappropriate material as determined in accordance with the Terms of Use and by the Chief of Police
- The Department welcomes a person's right to express his/her opinion and encourages individuals posting to keep comments related to content on the particular social media channel's page.
- The Department's social media platform is not a public forum, but rather a change to engage with the community and share information.
- The Departments reserves the right to remove any comments that are inappropriate or offensive, including comments that:
 - Defame, abuse, harass, stalk, threaten, or violate the legal rights of others
 - Include racism, hatred, slander, threats, obscenity, violence, or vulgarity.
 - Spam or similar advertisements
 - Contain personal information about another person or violate a person's privacy
 - Includes copyrighted material that belongs to another person
 - Contains links to inappropriate websites, including inappropriate "hashtags"

Occasionally, information may be submitted by the public to the Department's social media channels which may require an immediate response, such as:

- Report of a crime in-progress

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- Suicidal or despondent person
- Crime tip or lead involving an active investigation
- Threats

In the event a situation arises which requires immediate action, notification should be made to the on-duty Watch Commander. The SMT member who is available, and preferably on-duty, should then be assigned to assist with any possible correspondence with the person reporting the activity.

348.7 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.

348.8 RETENTION OF RECORDS

The Social Media Team Supervisor should 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. In the event a public records request or legal request has been made for content regarding the Department's social media platforms, those requests shall be forwarded to the Captain via the Records Maintenance and Release Policy.

348.9 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.

Generative Artificial Intelligence Use

349.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for department use of generative artificial intelligence (GenAI). This policy does not apply to artificial intelligence that is integrated into facial recognition applications, voice recognition applications, biometric access controls, or software that redacts documents or video or similar applications.

Additional guidelines for the use of department information technology resources are found in the Information Technology Use Policy.

349.1.1 DEFINITIONS

Definitions related to this policy include:

Generative artificial intelligence (GenAI) - A type of artificial intelligence that is algorithmically trained on one or more large data sets and designed to generate new and unique data (e.g., text, pictures, video) in response to a prompt (generally questions, instructions, images, or video) input by the user.

349.2 POLICY

The use of GenAI systems carries unique benefits within a law enforcement agency, providing ways to increase operational efficiency, enhance department procedures, and improve the overall effectiveness of the Montclair Police Department.

However, the prompts input into GenAI systems can present risks to both individuals and law enforcement agencies by making accessible to the public information such as department tactics, investigative and training techniques, confidential information (e.g., confidential informants, protected information), active investigations, and security procedures. In addition, without safeguards in place, GenAI can produce unintended discriminatory or biased output as well as content that is inaccurate, misleading, or copyrighted.

It is the policy of the Department to develop, implement, and use GenAI ethically and responsibly in a way that minimizes potential risk and harm in accordance with the guidelines set forth below.

Any function carried out by a member of the Department using GenAI is subject to the same laws, rules, and policies as if carried out without the use of GenAI. The use of GenAI does not permit any law, rule, or policy to be bypassed or ignored.

349.3 RESPONSIBILITIES

349.3.1 CHIEF OF POLICE

The Chief of Police or an authorized designee shall approve all GenAI systems, their acceptable uses, and their authorized user groups prior to the use, implementation, or development for any department functions.

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349.3.2 AI COORDINATOR

The Chief of Police or the authorized designee shall appoint an AI coordinator. The AI coordinator shall report to the Administration Lieutenant or the authorized designee.

The responsibilities of the AI coordinator include but are not limited to:

- (a) Evaluating potential GenAI systems and recommending those GenAI systems that appear to be appropriate and trustworthy to the Chief of Police or the authorized designee. The trustworthiness of GenAI systems should be evaluated by balancing the following characteristics:
 - 1. Validity and reliability - The system's apparent ability to meet the intended purpose and fulfill the needs of the Department consistently over time.
 - 2. Safety - Any apparent risk to human life, health, property, or the environment that could result from the department's use of the system.
 - 3. Security and resiliency - The system's capability to prevent unauthorized access and misuse and its ability to return to normal function should misuse occur.
 - 4. Accountability and transparency - The ability to track and measure the system's use and activity through histories, audit logs, and other processes to provide insight about the system and identify potential sources of error, bias, or vulnerability.
 - 5. Explainability and interpretability - The ability of the user to understand the purpose and impact of the system, how and why the system reached the resulting output, and what the output means for the user.
 - 6. Privacy - The ability of the system to protect confidentiality and meet applicable privacy standards for the types of data intended to be input into the system (e.g., state privacy laws, Criminal Justice Information Services (CJIS), Health Insurance Portability and Accountability Act (HIPAA)).
 - 7. Fairness - The ability of the system to operate in a way that avoids or minimizes bias and discrimination.
- (b) Ensuring appropriate contractual safeguards are in place to manage third-party use of department data and to restrict the use of input in AI training data sets. If the input of protected information is necessary for the proper use of the GenAI system, an information-exchange agreement in compliance with applicable rules and standards (e.g., CJIS requirements) should be used to outline the roles, responsibilities, and data ownership between the Department and third-party vendor.
- (c) Coordinating with others within the Department and City, such as the information technology or legal departments, as appropriate to ensure GenAI systems are procured, implemented, and used appropriately.
- (d) Maintaining a list or inventory of department-approved GenAI systems and, when appropriate for department transparency, making the list or inventory available to the public.
- (e) Developing and maintaining appropriate procedures related to the use of GenAI systems, including procedures for editing and fact-checking output.

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- (f) Ensuring any public-facing GenAI systems notify the user that GenAI is being used.
- (g) Developing and updating training for the authorized users of each department-approved GenAI system.
- (h) Ensuring access to department GenAI systems is limited to authorized users and establishing requirements for user credentials such as two-factor authentication and appropriate password parameters.
- (i) Conducting audits at reasonable time intervals for each of the GenAI systems utilized by the Department to evaluate the performance and effectiveness of each approved system and to determine if it continues to meet the department's needs and expectations of trustworthiness. The coordinator should arrange for audits to be conducted by an external source, as needed.
- (j) Ensuring each GenAI system is updated and undergoes additional training as reasonably appears necessary in an effort to avoid the use of outdated information or technologies.
- (k) Keeping abreast of advancements in GenAI and any GenAI-related legal developments.
- (l) Reviewing this policy and department practices and proposing updates as needed to the Chief of Police.
- (m) Developing procedures in coordination with the *Brady* information coordinator and the Records Supervisor for the compilation and potential release of any discovery or records related to the use of GenAI systems consistent with *Brady* and the California Public Records Act.

349.4 USE OF GENERATIVE AI

The use of department GenAI systems by department members shall be limited to official work-related purposes, and members shall only access and use GenAI systems for which they have been authorized and received proper training.

Members shall use AI-generated content as an informational tool and not as a substitution for human judgment or decision-making. Members should not represent AI-generated content as their own original work.

AI-generated content should be considered draft material only and shall be thoroughly reviewed prior to use. Before relying on AI-generated content, members should:

- (a) Obtain independent sources for information provided by GenAI and take reasonable steps to verify that the facts and sources provided by GenAI are correct and reliable.
- (b) Review prompts and output for indications of bias and discrimination and take steps to mitigate its inclusion when reasonably practicable (see the Bias-Based Policing Policy).
- (c) Include a statement in the final document or work product that GenAI was used to aid in its production.

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349.4.1 PRIVACY CONSIDERATIONS

Information not otherwise available to the public, including data reasonably likely to compromise an investigation, reveal confidential law enforcement techniques, training, or procedures, or risk the safety of any individual if it were to become publicly accessible, should not be input into a GenAI system unless contractual safeguards are in place to prevent such information from becoming publicly accessible. Members should instead use generic unidentifiable inputs, such as "suspect" or "victim," and hypothetical scenarios whenever possible.

Protected information should only be input into GenAI systems that have been approved for such use and comply with applicable privacy laws and standards (see the Protected Information Policy).

349.5 PROHIBITED USE

Members shall not use GenAI systems to rationalize a law enforcement decision, or as the sole basis of research, interpretation, or analysis of the law or facts related to a law enforcement contact or investigation.

Members shall not create user accounts in their official capacity or input work-related data (including information learned solely in the scope of their employment) into publicly available GenAI systems unless the system has been approved by the Chief of Police or the authorized designee for the intended use.

349.6 TRAINING

The AI coordinator should ensure that all members authorized to use GenAI have received appropriate initial training that is suitable for their role and responsibilities prior to their use of GenAI and receive periodic refresher training. Training should include but is not limited to the following:

- (a) A review of this policy
- (b) The need for human oversight of GenAI outputs
- (c) The interpretation, review, and verification of GenAI output
- (d) Checking GenAI output for bias or protected information
- (e) Ethical use of GenAI technology
- (f) Data security and privacy concerns

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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 Montclair 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 Montclair. 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.

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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.

400.6 ALARM CARDS

Absent extenuating circumstances, officers responding to alarm activation calls which are found to be false activations shall complete an Alarm Activation Notice and leave a copy of the notice at the location. The officer shall obtain the call incident number from Dispatch and record the number on the alarm card. The original Alarm Activation Notice and NCR copy shall be turned in at the end of shift.

Officers leaving an Alarm Activation Notice shall advise the dispatcher of a call disposition of "ACL" (Alarm Card Left). If no card is left due to extenuating circumstances, the officer shall advise the dispatcher that no card was left and the reason. The dispatcher shall document that information on the call record. Records Bureau personnel process the alarm cards for billing through the City Finance Department and retain the alarm card records.

400.7 SHIFT GUIDELINES

The Field Services Division has developed and will maintain Shift Guidelines that establish uniform procedures for daily patrol operations. The Shift Guidelines are meant to clarify or supplement existing policies and procedures and not to supersede them. In the event of conflict, the policies and procedures contained in this Policy Manual shall apply.

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400.8 VEHICLE REPOSSESSIONS

When possession is taken of any vehicle by or on behalf of any legal owner thereof, under the terms of security agreement or lease agreement, the person taking possession shall immediately notify, by the most expeditious means available, the law enforcement agency where such taking of possession occurred and shall, within one business day, forward a written notice to such department (Vehicle Code §28).

Records Bureau and Dispatch personnel taking a repossession call shall document the information on the Dispatch log and complete a repossession entry into the CLETS Stolen Vehicle System (SVS) without unnecessary delay.

If the buyer objects verbally or physically, the re-possessor has no right to take possession of the vehicle. If the legal owner can repossess peacefully, he/she may do so. If not, he/she must resort to the legal process to enforce his/her claim.

If the re-possessor has taken lawful possession of the vehicle, the re-possessor may keep the vehicle over the buyer's objection. The re-possessor may push a car out of a driveway or take it off a parking lot if the buyer, spouse, or parking lot attendant does not object.

400.9 CITIZEN CONTACT (INCAPACITATED)

Incapacitated is defined as unconscious, passed-out, or asleep. Members who respond to a situation where a person is incapacitated shall attempt to arouse or awaken the person. If the person cannot be aroused, medical aid shall be summoned immediately.

Briefing Training

401.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the officer's assigned shift. Briefing provides an opportunity for important exchange of information between members and supervisors. The Watch Commander generally will conduct briefing, however officers may conduct briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

- (a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles, and major investigations
- (b) Notifying officers of changes in schedules and assignments
- (c) Notifying officers of new Departmental Directives or changes in Departmental Directives
- (d) Reviewing recent incidents for training purposes
- (e) Providing training on a variety of subjects
- (f) Assigning equipment
- (g) Assigning officers to specific directed patrol activities
- (h) Reviewing the turnover book

401.2 PREPARATION OF MATERIALS

The Watch Commander conducting briefing is responsible for preparation of the materials necessary for a constructive briefing. Watch Commanders may delegate this responsibility to a subordinate officer in his/her absence or for training purposes.

Crime and Disaster Scene Integrity

402.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

402.2 POLICY

It is the policy of the Montclair 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.

402.3 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.

402.4 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.

402.5 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured

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persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

402.5.1 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.

402.6 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).

Bias-Based Policing

403.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Montclair 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).

403.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing or improper profiling - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4). This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

403.2 POLICY

The Montclair 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.

403.3 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.

403.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.

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- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

403.4 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.

403.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved officer should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

403.4.2 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 Government Code § 12525.5 and 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the Montclair Police Department is the primary agency, the Montclair 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).

403.4.3 DISCLOSURE AND DOCUMENTATION OF TRAFFIC OR PEDESTRIAN STOP

An officer conducting a traffic or pedestrian stop shall state the reason for the stop prior to questioning the individual related to a criminal investigation or traffic violation unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to cases of terrorism or kidnapping (Vehicle Code § 2806.5).

Officers shall document the reason for the stop on any citation or report (Vehicle Code § 2806.5).

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403.5 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 Data 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.
- (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.

403.6 ADMINISTRATION

Each year, the Field Services Lieutenant should review the efforts of the Department to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief of Police.

The annual 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 annual report and discuss the results with those they are assigned to supervise.

403.7 TRAINING

Training on fair and objective policing and review of this policy shall be conducted annually and include:

- (a) Explicit and implicit biases.
- (b) Avoiding improper profiling.

403.7.1 ADDITIONAL STATE REQUIREMENTS

Training should be conducted as directed by the Training.

- (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.

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- (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 POST refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity, and cultural trends (Penal Code § 13519.4(i)).

403.8 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Captain shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and provided to the Records Supervisor for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Bureau Policy.

Supervisors should ensure that data stop reports are provided to the Records Supervisor for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

SWAT TEAM

404.1 PURPOSE AND SCOPE

The presence of a highly trained and skilled tactical unit has been shown to reduce the risk of injury or death to citizens, police officers, and suspects. A well managed team response to critical incidents beyond the scope and training of patrol officers and detectives, usually results in the successful resolution of those events. The Montclair Police Department has entered into agreement with the San Bernardino County Sheriff's Department Special Weapons and Tactics (SWAT) team to provide tactical support when required.

404.1.1 SWAT TEAM DEFINED

A SWAT team is a designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units including, but not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, such a unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

404.2 ACTIVATION CRITERIA

The San Bernardino County Sheriff's Department SWAT Team may be requested for incidents involving:

- (a) Hostage situations
- (b) Barricaded suspect who is believed to have committed a felony crime, cannot be convinced to surrender in a reasonable amount of time and whose apprehension is beyond the normal scope and/or expertise of patrol operations
- (c) Any application of special weapons and tactics which is beyond the normal scope of patrol operations such as high risk search warrants, high risk fugitive apprehensions, etc.

The SBSD SWAT Team Commander may authorize the use of SWAT Team personnel for other operations on a case-by-case basis.

404.3 SWAT TEAM ACTIVATION

SWAT Team activations should be initiated by the Watch Commander.

- (a) The Watch Commander should request approval for activation from an on-duty member of Command Staff or the Duty Commander. If a member of Command Staff is not immediately available, the Watch Commander may authorize activation; but shall notify the Duty Commander as soon as practicable.
- (b) The Watch Commander should request that Dispatch contact the San Bernardino County Sheriff's Department Eagle Center (909 356-9652) to request an activation.

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The SWAT Team Commander will contact the Watch Commander who will brief him/her on the incident.

- (c) If approval for activation is authorized by the SWAT Team Commander, he/she will take responsibility for notifications to SBSO SWAT Team members.
- (d) The Watch Commander shall notify an on-duty member of Command Staff or the Duty Commander of a SWAT activation as soon as practicable.

404.3.1 SEARCH WARRANTS

The Montclair Police Department is responsible for securing search warrants necessary for SWAT Team activations. A search warrant is generally required to enter a residence or structure not open to the general public to arrest or detain a barricaded suspect or fugitive.

The Watch Commander should ensure personnel are assigned the task of securing a search warrant as soon as practicable. The Detective Bureau should be requested when necessary.

Search warrants related to SWAT activations shall include the "SWAT-Search Warrant Attachment" authorizing the use of the "tactical tractor", "throw phone", and "tactical robots". The "SWAT-Search Warrant Attachment" can be found on Z:\Department Shares\SWAT-SBSO.

404.4 COMMAND STAFF RESPONSE

Upon notification of a SWAT Team activation, a member of Command Staff or the Duty Commander shall respond to the location of incident as soon as practicable. The Command Staff member will work with the SWAT Team Commander to coordinate the multi-agency response. The Duty Commander involved in the decision to activate the SWAT Team shall notify the Chief of Police of the activation as soon as practicable.

404.5 FIELD UNIT RESPONSE

While waiting for the SWAT Team, field personnel should, if safe, practical and sufficient resources exist:

- (a) Establish an inner and outer perimeter.
- (b) Establish a command post outside of the inner perimeter.
- (c) Establish an arrest/response team. The team actions may include:
 - 1. Securing any subject or suspect who may surrender.
 - 2. Taking action to mitigate a deadly threat or behavior.
- (d) Evacuate any injured persons or citizens in the zone of danger.
- (e) Attempt to establish preliminary communication with the suspect. Once the SWAT Team has arrived, all negotiations should generally be halted to allow the negotiators and SWAT time to set up.
- (f) Be prepared to brief the SWAT Team Commander on the situation.

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- (g) Plan for, and stage, anticipated resources.

404.6 TACTICAL RESPONSE

Once the San Bernardino County Sheriff's Department SWAT Team assumes responsibility and control of the incident, the inner perimeter shall be controlled by the SBSD SWAT Team. The Montclair Police Department will provide patrol support to the SBSD SWAT Commander, including a command-level representative the rank of Lieutenant or higher. The Montclair Police Department shall be responsible for investigating all crimes related to the incident, both pre and post incident. The San Bernardino County Sheriff's Department SWAT Team shall be responsible for any breaching, entry, clearing and arrests of suspects. The duly authorized commander of the San Bernardino County Sheriff's Department SWAT Team shall be responsible for approving the tactics to be utilized and shall decide when a tactical plan will be implemented to resolve a situation.

404.7 CRISIS NEGOTIATIONS

In instances where crisis negotiations are needed the SBSD SWAT Crisis Negotiations Team shall be responsible for and conduct any and all negotiations with suspects.

404.8 DEMOBILIZATION

The SBSD SWAT Team shall be responsible for identifying and documenting any damage to private or public property that occurs during a SWAT incident as well as investigating and responding to any civil claims arising from such damage. The SBSD SWAT Team shall be responsible for investigating any Citizen Complaints that arise from the actions of its personnel during a SWAT incident. The SBSD SWAT Team shall be responsible for documenting any Use of Force incidents involving its personnel during a SWAT incident in accordance with SBSD Use of Force reporting policies. Any Officer Involved Shooting incident involving SBSD personnel shall be investigated by the SBSD Homicide Division Shooting Team.

Hazardous Material Response

405.1 PURPOSE AND SCOPE

Exposure to hazardous materials presents potential harm to department members and the public. This policy outlines the responsibilities of members who respond to these events and the factors that should be considered while on-scene, including the reporting of exposures and supervisor responsibilities. To comply with 8 CCR § 5194, the following is to be the policy of this department.

405.1.1 DEFINITIONS

Definitions related to this policy include:

Hazardous material – A substance which, by its nature, containment, or reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

405.2 HAZARDOUS MATERIAL RESPONSE

Members may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill, or fire. When members come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

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

- (a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest, or statements from the person transporting).
- (b) Notify the fire department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).
- (f) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety Code § 79355).

405.3 REPORTING EXPOSURE

Department members who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the member in an employee memorandum that shall be forwarded via chain of command to the Watch Commander as soon as practicable. Should the affected member be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the report.

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Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report as applicable.

405.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that a member has been exposed to a hazardous material, the supervisor shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of members, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the fire department.

Hostage and Barricade Incidents

406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

406.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

- (a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- (b) Unlawfully held against his/her will under threat or actual use of force.

406.2 POLICY

It is the policy of the Montclair Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

406.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

406.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

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The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

406.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Public Information Officer (PIO).
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

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406.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- (e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (f) Provide responding emergency personnel with a safe arrival route to the location.
- (g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

406.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a

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SWAT response if appropriate and apprising the SWAT Commander of the circumstances. In addition, the following options should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).
 - 1. When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists involving immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Department obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption. If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.
- (h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct non-essential personnel away from the scene unless they have been summoned by the supervisor or Dispatch.
- (i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.

406.6 SUPERVISOR RESPONSIBILITIES FOR NOTIFYING A SWAT TEAM

The Incident Commander will decide, with input from a SWAT Commander, whether to deploy an allied agency's SWAT team during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the Commander or the authorized designee of the responding SWAT team will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the SWAT team. The Incident Commander and the SWAT Commander or the authorized designee shall maintain communications at all times.

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406.7 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

Response to Bomb Calls

407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Montclair 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.

407.2 FOUND EXPLOSIVES/SUSPECT DEVICES

When an officer responds to a call of a suspected explosive device, the following guidelines shall be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging
- (b) Secure the perimeter for a minimum of three hundred feet allowing for an entrance for support personnel
- (c) Relay as much initial information as possible to the Watch Commander without touching the device, including:
 - 1. The stated threat
 - 2. How made
 - 3. Exact comments
 - 4. Time
 - 5. Location
 - 6. Full description (e.g., size, shape, markings) of the device in question
- (d) Do not touch or transport the device to any other location
- (e) Do not transmit on any equipment that produces radio frequency energy within 300 feet. Consideration should be given to the possibility for evacuation if a device is located within a building.
- (f) Secure a perimeter around the suspected device
- (g) Consideration for support personnel such as paramedics and Fire Department personnel
- (h) A search of the area should be conducted for secondary devices or other objects foreign to the area
- (i) Found explosive or military ordnance of any type should be handled only by the Bomb Squad

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- (j) Call for assistance from the Ontario Fire Department Bomb Squad

407.3 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic incidents, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds, or additional damage by resulting fires or unstable structures. Whether the explosion was the result of an accident or a criminal act, the responding officers should consider the following actions:

- (a) Assess the scope of the incident, including the number of victims and extent of injuries
- (b) Assist with first aid (Fire Department has primary responsibility)
- (c) Assist with evacuation of victims (Fire Department has primary responsibility)
- (d) Identify and take appropriate precautions to mitigate scene hazards such as collapsed structures, bloodborne pathogens, hazardous materials and secondary explosive devices
- (e) Request additional resources as needed
- (f) Identify witnesses
- (g) Preserve evidence

407.3.1 NOTIFICATIONS

When an explosion has occurred, the following people shall be notified as soon as practical if their assistance is needed:

- (a) Additional field officers
- (b) Watch Commander
- (c) Fire Department
- (d) Detectives
- (e) Bomb squad
- (f) Crime Lab
- (g) FBI
- (h) ATF

407.3.2 CROWD CONTROL

Only authorized personnel with a legitimate need shall be permitted access to the scene. Spectators and other unauthorized individuals shall be excluded to a safe distance as is reasonably practicable given the available resources and personnel.

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407.3.3 SCENE OF INCIDENT

As in any other crime scene, steps should immediately be taken to preserve the scene. The crime scene should be expanded out to the furthest point of the debris field.

A search of the area should be conducted for other objects foreign to the area such as a secondary device. If an item is found, it should not be touched. The area should be evacuated immediately and the bomb squad notified.

407.4 BOMB THREATS RECEIVED AT POLICE FACILITY

This procedure shall be followed should a bomb threat call be received.

407.4.1 BOMB THREATS RECEIVED BY TELEPHONE

The following questions should be asked if a call of a bomb threat is received at the Police Department:

- (a) When is the bomb going to explode?
- (b) Where is the bomb?
- (c) What kind of bomb is it?
- (d) What does it look like?
- (e) Why did you place the bomb?
- (f) Who are you? (to avoid possible termination of the call this should be the last question asked)

Attempt to keep the caller on the line as long as possible and obtain expanded answers to these five basic questions.

During this time, document the following:

- Time of the call.
- Exact words of the person as accurately as possible.
- Estimated age and gender of the caller.
- Speech patterns and/or accents.
- Background noises.

If the incoming call is received at the police facility on a recorded line, steps shall be taken to ensure that the recording is preserved in accordance with current department evidence procedures.

407.4.2 RESPONSIBILITIES

As soon as a bomb threat has been received, the Watch Commander shall be advised and fully informed of the details. The Watch Commander shall then direct and assign officers as required for coordinating a general building search or evacuation as he/she deems appropriate.

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If a bomb threat is received by a business, the owner/manager will make the decision whether or not to evacuate. If, during the search of the business, a suspicious item is located, the Watch Commander shall ensure the business and surrounding area is evacuated and the bomb squad is notified.

Mental Illness Commitments

408.1 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).

408.2 POLICY

It is the policy of the Montclair Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

408.3 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

408.3.1 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.

408.3.2 RESTRAINTS

If the patient is violent or potentially violent, the officer shall notify the staff of this concern. The staff member in charge will have discretion as to whether soft-restraints will be used. If these restraints

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are desired, the officer should wait while they are being applied to help provide physical control of the patient, if needed.

408.3.3 MENTAL HEALTH DOCUMENTATION

The officer shall complete an Application For 72-Hour Detention for Evaluation and Treatment form and provide it to the staff member assigned to that patient. The officer shall retain a copy of the 72-hour evaluation form as the police report. If the circumstances of the incident are such that it cannot be sufficiently documented on the 72-Hour Detention for Evaluation and Treatment form, a supplemental narrative shall also be completed. The officer shall also provide a verbal summary to an emergency room staff member regarding the circumstances leading to the involuntary detention.

Pursuant to Welfare and Institutions Code § 5157, the detaining officer shall read a detainment advisement to the person detained for psychiatric evaluation. The detainment advisement is located on the Application for 72-Hour Detention for Evaluation and Treatment form.

408.3.4 SECURING OF WEAPONS

If a receiving and secured facility prohibits weapons or if an extraordinary event occurs in the treatment facility and officers determine a need to secure their firearms, the firearm shall be secured in the appropriate gun locker at the facility or in the police unit.

408.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

408.4.1 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).

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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).

408.5 TRANSPORTATION

When transporting any individual for a 5150 commitment to a facility not normally utilized by the department, the transporting officer should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in a patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Watch Commander approval is required before transport commences.

408.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

408.7 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.

408.7.1 ADVISEMENT

The officer taking a person into custody for evaluation shall advise the person of:

- (a) The officer's name and agency.

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- (b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
- (c) The name of the facility to which the person is being taken.
- (d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

408.8 CRIMINAL OFFENSES

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

408.9 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

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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).

408.9.1 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.

408.10 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.

Rapid Response and Deployment

409.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers in situations that call for rapid response and deployment.

409.2 POLICY

The Montclair Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

409.3 CONSIDERATIONS

When dealing with a crisis situation members should:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

409.4 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

When deciding on a course of action officers should consider:

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- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the officers have the ability to effectively communicate with other personnel or resources.
- (f) Whether planned tactics can be effectively deployed.
- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, officers should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

409.4.1 RESPONSE TO SCHOOL THREATS

Upon receiving a threat or perceived threat from a school official that involves grades 6 to 12, officers shall immediately investigate and conduct a threat assessment. The investigation shall include a review of the firearm registry of the California Department of Justice. A reasonable search of the school at issue shall be conducted when the search is justified by reasonable suspicion that it would produce evidence related to the threat or perceived threat (Education Code § 49394).

For purposes of this subsection a "threat" or "perceived threat" means any writing or action of a pupil that creates a reasonable suspicion that the pupil is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the pupil. It may also include a warning by a parent, pupil, or other individual (Education Code § 49390).

409.5 PLANNING

The Support Services Lieutenant should coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.

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- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

409.6 TRAINING

The Support Services Lieutenant should include rapid response to critical incidents in the training plan. This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
 - (a) This should include the POST terrorism incident training required for officers assigned to field duties (Penal Code § 13519.12).
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

Emergency Utility Service

410.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner:

410.1.1 BROKEN WATER LINES

City Public Works does not maintain water service for the City of Montclair. Broken water lines should be reported to the Monte Vista Water District.

410.1.2 ELECTRICAL LINES

The Public Works Department does not maintain electrical lines to street light poles. When a power line poses a hazard, an officer should be dispatched, along with the Fire Department, to protect against personal injury or property damage that might be caused by power lines. Southern California Edison shall also be promptly notified. When appropriate, Public Works may be notified.

410.1.3 RESERVOIRS, PUMPS, WELLS, ETC.

Monte Vista Water District and Chino Valley Water District maintain the water lines under the streets, reservoirs, and water equipment. In the event of flooding or equipment malfunctions, Monte Vista Water District personnel should be contacted as soon as possible.

410.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by Dispatch.

410.2 TRAFFIC SIGNAL MAINTENANCE

The City of Montclair contracts with a private maintenance company to furnish maintenance for all traffic signals within the City, other than those maintained by the State of California.

410.2.1 OFFICER'S RESPONSIBILITY

Upon observing a damaged or malfunctioning signal, the officer shall advise the Dispatch of the location and problem with the signal. If a member encounters a flashing signal or one not cycling properly, the member should attempt to "reset" the signal at the box to see if the problem is resolved. The officer should turn the signal to the "off" position, then switch back to "on" to determine if the flashing and/or inoperative signal problem is resolved. If the reset is ineffective, the officer should request Dispatch to have Traffic Signal Maintenance (TSM) personnel respond. The signals are to be left on "flash" for TSM. Turning a traffic signal to the "off" position may pose a hazard for motorists when the switch is turned back to "on," as lights may turn immediately red or green. A second person should be utilized for traffic control if necessary.

When a Traffic Signal Maintenance employee is called out after-hours for a signal repair, the City pays a higher cost for the call-out. Members should consider waiting until the next day to call out

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a Traffic Signal Maintenance employee to an intersection that is not busy, when the signal is on flashing red, and the signal does not impede traffic flow. However, if the signal does not work and is a safety hazard, Traffic Signal Maintenance employees should be called immediately to repair the signal.

410.3 TEMPORARY STOP SIGNS

The City of Montclair maintains MUTCD compliant portable stops signs at the City Yard. Portable stop signs shall not be used except for emergency and temporary traffic control purposes. The Watch Commander shall be notified prior to the placement of portable stop signs.

Upon placement during a power outage to control a signalized approach, the member shall ensure the signal indication that will first be displayed to that approach upon restoration of power is a flashing red signal indication. The stop sign shall be removed from view prior to the normal operation of the traffic control signal.

Immigration Violations

411.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Montclair Police Department relating to immigration and interacting with federal immigration officials.

411.1.1 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.

411.2 POLICY

It is the policy of the Montclair 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.

411.3 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.

411.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

411.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

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Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

411.4.2 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Members shall not obtain, access, use, or otherwise disclose noncriminal history information maintained by the DMV for immigration enforcement (Vehicle Code § 1808.48).

411.5 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).

411.5.1 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.

411.6 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.).

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411.7 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.

411.7.1 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.

411.7.2 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 Montclair Police Department intends to comply with the request (Government Code § 7283.1).

If the Montclair Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

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411.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Montclair Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

411.7.4 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.

411.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Detective Bureau supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Supervisor for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Bureau Policy).

411.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Detective Bureau supervisor assigned to oversee the handling of any related case. The Detective Bureau supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

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1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
 2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). The certification shall be completed and not refused for the specified reasons in Penal Code § 679.10(k)(3).
 3. Form I-914 Supplement B declaration shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking). The declaration shall be completed and not refused for completion for the specified reasons in Penal Code § 679.11(j)(3).
 4. Forward the completed Form I-918 Supplement B certification or completed Form I-914 declaration B to the victim, family member, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) without requiring the victim to provide government-issued identification (Penal Code § 679.10; Penal Code § 679.11)
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.
1. If Form I-918 Supplement B is not certified, a written explanation of denial shall be provided to the victim or authorized representative. The written denial shall include specific details of any reasonable requests for cooperation and a detailed description of how the victim refused to cooperate (Penal Code § 679.10).
- (e) Inform the victim liaison of any requests and their status.

411.8.1 TIME FRAMES FOR COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

411.8.2 REPORTING TO LEGISLATURE

The Detective Bureau supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

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411.8.3 POLICE REPORTS

Upon request, an officer or supervisor should provide a victim or authorized representative with a copy of the report filed by the victim within seven days of the request (Penal Code § 679.10).

411.9 TRAINING

The Support Services Lieutenant 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

412.1 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.

412.1.1 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.

412.2 POLICY

It is the policy of the Montclair Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

412.3 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).

412.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

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412.5 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)

412.6 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.

412.7 DANGEROUS MATERIALS

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.
- (c) Fluids, batteries, flares and igniters.

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- (d) Evacuation chutes, ballistic parachute systems and composite materials.

412.8 DOCUMENTATION

All aircraft accidents occurring within the City of Montclair 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 MPD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

412.8.1 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.

412.8.2 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.

412.9 MEDIA RELATIONS

The Public Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

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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

413.1 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 Montclair 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.

413.2 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.

413.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

- (a) Desire to be an FTO
- (b) Minimum of two years of patrol experience, two of which shall be with this department. This requirement may be waived by the Chief of Police or his/her designee.
- (c) Demonstrated ability as a positive role model
- (d) Participate and pass an internal oral interview selection process
- (e) Evaluation by supervisors
- (f) Possess a POST Basic certificate

413.2.2 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.

413.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Field Services 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

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- (b) Conduct FTO meetings
- (c) Maintain and ensure FTO/trainee performance evaluations are completed
- (d) Maintain, update, and issue the Field Training Manual to each trainee
- (e) Monitor individual FTO performance
- (f) Monitor overall FTO Program
- (g) Maintain liaison with FTO coordinators of other agencies
- (h) Maintain liaison with academy staff on recruit performance during the academy
- (i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator's Course within one year of appointment to this position (11 CCR 1004(c)).

413.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Montclair Police Department who has successfully completed a POST approved Basic Academy.

413.5 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.

413.5.1 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 Montclair 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 Montclair Police Department.

413.6 EVALUATIONS

Evaluations are an important component of the training process and shall be completed as outlined below.

413.6.1 FIELD TRAINING OFFICER

The FTO will be responsible for the following:

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- (a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.
- (b) Review the Daily Trainee Performance Evaluations with the trainee each day.
- (c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.
- (d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

413.6.2 IMMEDIATE SUPERVISOR

The Field Training Administrator should communicate with the trainee's immediate supervisor regularly to address the trainee's progression in the Field Training Program..

413.6.3 FIELD TRAINING ADMINISTRATOR

The Field Training Administrator will review and approve the Daily Trainee Performance Evaluations submitted by the FTO.

413.6.4 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.

413.7 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

Ride-Along Policy

414.1 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.

414.1.1 ELIGIBILITY

The Montclair Police Department Ride-Along Program is offered to residents, students and those employed within the City. Every attempt will be made to accommodate interested persons however any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 15 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

414.1.2 AVAILABILITY

The Ride-Along Program is available seven days per week, 24 hours per day. The Montclair Police Department Ride-Along Program is offered to residents, applicants, students, persons employed within the City, and others at the discretion of the Watch Commander. All ride-alongs require prior approval of the Watch Commander or a member of command staff. Media shall not ride-along without prior approval from the Chief of Police.

In accordance with the CLETS security requirements established in the California Law Enforcement Telecommunications System (CLETS) Policies, Practices and Procedures Manual, persons not currently employed at a law enforcement agency are not allowed in the Records Bureau or Communications Center. Sit-alongs in the Records Bureau and Dispatch are not authorized.

414.2 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.

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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.

414.2.1 PROGRAM LIMITATIONS

Once approved, ride-alongs will be allowed to ride no more than once every six months. An exception would apply to non-sworn members of the Department and others with approval of the Watch Commander or a member of staff. Normally, ride-alongs are to be no longer than one-half of a shift in duration. An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given shift. Normally, no more than one ride-along will be allowed in an officer's vehicle at a time.

414.2.2 SUITABLE ATTIRE

Any person approved to ride along is required to be suitably dressed in casual business attire. 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 may refuse a ride along to anyone not appropriately dressed.

414.2.3 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.

414.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK

All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Montclair Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

414.3 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 enroute to a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher shall 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.

414.4 CONTROL OF RIDE-ALONG

The assigned member 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 shall follow the directions of the officer.

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- (b) The ride-along shall not become involved in any investigation, handling of evidence, discussions with victims, witnesses, or suspects.
- (c) The ride-along shall not handle any weapons or use the radio or computer.
- (d) 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.
- (e) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety.
- (f) Officers shall 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.
- (g) Under no circumstance shall a ride-along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person.
- (h) Ride-alongs shall not view criminal history information, CLETS information, police reports, law enforcement bulletins, or other confidential records. Mobile Data Computer (MDC) screens shall be positioned in such a way so that ride-alongs cannot view the information on the screen.

Due to the privileged and/or confidential information being discussed during briefing, ride-alongs should not be allowed to attend briefings.

Obtaining Air Support

415.1 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.

415.2 REQUEST FOR HELICOPTER ASSISTANCE

The Watch Commander will determine whether helicopter support is needed and will direct Dispatch to contact the San Bernardino County Sheriff's Department to request helicopter support.

415.2.1 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.

Watch Commanders

416.1 PURPOSE AND SCOPE

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions, and objectives. To accomplish this goal, a sergeant heads each watch.

416.2 DESIGNATION AS ACTING WATCH COMMANDER

When a sergeant is unavailable for duty as the Watch Commander, a senior qualified officer may be designated as Officer-in-Charge (OIC) with approval of a Field Services Lieutenant or Duty Command.

416.3 WATCH COMMANDER RESPONSIBILITIES

In the absence of an officer of higher rank or until relieved of command, the Watch Commander is ultimately responsible for all law enforcement operations in the City, which include but are not limited to:

- (a) Conduct shift briefings
- (b) Assignment of personnel
- (c) Training
- (d) Mentoring
- (e) Counseling
- (f) General law enforcement duties
- (g) Conduct detention facility inspections on a shift basis
- (h) Review and approve police reports
- (i) Prepare performance evaluations
- (j) General supervision of patrol operations
- (k) Supervision of department members in the absence of their immediate supervisor
- (l) Approve payroll records
- (m) Prepare Supervisor's Report of Accident forms
- (n) Post-storage validity hearings
- (o) Accept personnel complaints
- (p) Scheduling
- (q) The Sunday graveyard Watch Commander shall conduct weekly inventory of the patrol supply locker
- (r) Issue equipment

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- (s) Complete Patrol Sergeant's Shift Report
- (t) Any other assigned duties

416.3.1 PATROL SERGEANT'S SHIFT REPORT

The Patrol Sergeant's Shift Report is a tool for management which keeps the Department's command staff and other supervisors informed of conditions that impact the Department and the community. This report is an essential element of the Department's daily operation. The Department's command staff must have current information that keeps them abreast of crime trends and personnel issues as well as other related issues that affect the City. It is important that the Patrol Sergeant's Shift Report accurately serves the function of identifying issues and stating the actions taken.

The Patrol Sergeant's Shift Report form shall be completed by the Watch Commander at the end of shift. Any training provided shall be listed in the Briefing Training section of the form.

Any planned activities shall be listed in the Planned Activities section and should include, but not be limited to such things as prostitution details, traffic enforcement, burglary stakeouts, truant sweeps, DUI enforcement, bar checks, gang suppression activity, warrant sweeps, illegal vendor enforcement, and community oriented policing events.

The Shift Activity section should include but not be limited to a synopsis of noteworthy major crimes, such as homicides or suspicious deaths, robbery investigations, assault with a deadly weapon, sex crimes, any incident in which a press release is made, observation of crime trends, any incident that warrants duty command notification, notable complex investigation arrests, outstanding police work, a notation that a personnel complaint was received (not including the name of the member involved), injuries to arrestees or personnel, major traffic collisions, pursuits, assaults on officers, and incidents involving potential liability to the city. The CR number, location of occurrence or business name should be included.

This document is a public document open for inspection, therefore disciplinary matters shall not be included in this report.

Mobile Data Computer Use

417.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Data Computer (MDC) system in order to ensure appropriate access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and Dispatch.

417.2 POLICY

Montclair Police Department members using the MDC shall comply with all appropriate federal and state rules and regulations and shall use the MDC in a professional manner, in accordance with this policy.

417.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

417.4 RESTRICTED ACCESS AND USE

MDC use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDC system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDC by another member to their supervisors or Watch Commanders.

Use of the MDC system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks and communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

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

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDC system unless directed to do so by a supervisor. Members are required to log off the MDC or secure the MDC when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

417.4.1 USE WHILE DRIVING

Use of the MDC by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical or safety needs should be transmitted over the radio.

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Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

417.5 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Watch Commander or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MDC unless security or confidentiality prevents such broadcasting.

MDC and voice transmissions are used to document the member's daily activity. To ensure accuracy:

- (a) All contacts or activity shall be documented at the time of the contact.
- (b) Whenever the activity or contact is initiated by voice, it should be documented by a dispatcher. Members are not to document activity via the MDC unless directed to by a supervisor.

417.5.1 STATUS CHANGES

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MDC system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Status changes on the MDC are not permitted unless directed by a supervisor.

417.5.2 EMERGENCY ACTIVATION

If there is an emergency activation (if equipped on the MDC) and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor and the Watch Commander are notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are also handling an emergency.

417.6 EQUIPMENT CONSIDERATIONS

417.6.1 MALFUNCTIONING MDC

Whenever possible, members will not use vehicles with malfunctioning MDCs. Whenever members must drive a vehicle in which the MDC is not working, they shall notify Dispatch. It shall be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the police radio.

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417.6.2 BOMB CALLS

When investigating reports of possible bombs, members should not communicate on their MDCs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDC could cause some devices to detonate.

Portable Audio/Video Recorders Body-Worn Camera (BWC)

418.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video BWC recording devices by members of this department while in the performance of their duties. Portable audio/video and BWC recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Montclair Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

418.1.1 PRIVACY

All recordings made by personnel acting in their official capacity as members of this department shall remain the property of the Department and should not be considered private, regardless of whether those recordings were made with department-issued or personally owned recorders.

418.2 POLICY

The Montclair Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

418.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity for this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

418.4 MEMBER RESPONSIBILITIES

The following personnel are required to carry and wear the BWC recorder in an approved manner while on-duty. These guidelines are specific to the rank of Sergeant through Officer and other members assigned to patrol. Lieutenants shall carry and wear the BWC recorder when functioning as the Watch Commander.

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a BWC issued by the Department, and that the BWC is in good working order. If the BWC is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members shall wear the BWC above the belt line of the torso, facing forward, in a location that will facilitate an optimum recording field of view.

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Any member assigned to a non-uniformed position shall be equipped with a BWC in the field, when activation would be required under this policy or would be beneficial to the situation. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members shall wear the BWC recorder at or above the belt line of the torso, facing forward, in a location that will facilitate an optimum recording field of view.

A supervisor may, when it is deemed necessary or appropriate, require any officer or department member to carry and use a department issued BWC device.

When using a portable recorder, the assigned member shall record his/her name, MPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Members shall document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

Members may review his or her own BWC recordings at any time, including in connection with an administrative interview. The recording may be reviewed with other members as it relates to their involvement in an incident or to continue an investigation. Detectives may view BWC recordings with their assigned cases. BWC recordings may be viewed in any situation not addressed by this policy when approved by the Chief of Police or his/her designee. In each situation, the reason shall be documented in the notes section of the recording.

The remote in or live view capability of the BWC is not currently available and the After-the-Fact recording function is disabled.

418.4.1 SUPERVISOR RESPONSIBILITIES

Supervisors should ensure that a recording a device may have captured in an incident involving the use of force, an officer-involved shooting or death or other serious incident has its data downloaded (Penal Code § 832.18).

Supervisors should utilize the BWC device when receiving a citizen complaint. During in-person citizen complaints, supervisors may utilize the existing WatchGuard recording system located in the department interview room as an alternative recording option. Supervisors will ensure officers utilize the BWC according to this policy. Supervisors should audit their employee's BWC recordings for the purpose of ensuring videos are properly tagged. Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance. Supervisors shall not unnecessarily conduct extensive audits of BWC footage.

It shall be deemed a violation of this policy for a supervisor to review recordings for the sole purpose of researching for violations of department policy or law not related to a specific complaint

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or incident. In each situation, the supervisor shall document the reason in the event notes sections of the recording.

418.5 ACTIVATION OF THE PORTABLE RECORDER

It is the policy of the Montclair Police Department to provide designated department personnel a BWC device to record public contacts other than those of a casual nature. This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. Members should activate the BWC any time the member believes it would be appropriate or valuable to record an incident. The types of public contacts to be recorded include:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations, detentions, arrest(s), disturbance calls, high-risk or other potentially volatile situations, and those situations that are considered a threshold incident.
- (b) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording. When officers, uniformed or non-uniformed, detectives, SET officers, SWAT officers, IRNET officers, or any other officer involved in a search warrant or high-risk entry participates in such activity, BWC shall be used in accordance with the provisions of this policy unless the use of a BWC compromises the identity of undercover officers or jeopardizes tactics. Officers not wearing the BWC during a search warrant must have prior approval from their assigned lieutenant
- (c) Self-initiated activity in which a member would normally notify Dispatch.
- (d) BWC recordings may occur in any situation not addressed by this policy, when approved by the Chief of Police or his/her designee.

The recording of such contacts is required, except in those situations where it can be articulated that it would have jeopardized personal safety in order to have activated or otherwise adjusted the recorder. It is also recognized that, as with any mechanical device, there may be times that the recorder may malfunction and/or as a result of other circumstances become disabled during an incident.

Officers have the discretion to record other types of activities, such as general public contacts. Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

Members should use caution in recording conversations where the recording of an individual, informant, or witness would otherwise remain unknown and where such recording could compromise an investigation or subject the person to unreasonable personal risk.

Penal Code § 632 prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation was private or

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confidential, however Penal Code § 633 expressly exempts law enforcement from this prohibition during the course of a criminal investigation. Absent a court order, no member of this department may surreptitiously record a conversation of any other member of this department without the expressed knowledge and consent of all parties. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation pursuant to Government Code § 3303(g).

Any officer of this department may surreptitiously record any conversation during the course of a criminal investigation in which the officer reasonably believes that such a recording will be beneficial to the investigation. For the purpose of this policy, any officer contacting an individual suspected of violating any law or during the course of any official law enforcement related activity shall be presumed to be engaged in a criminal investigation. This presumption shall not apply to contacts with other department members conducted solely for administrative purposes.

Members of the Department are encouraged to activate their recorders at any time that the officer reasonably believes that a recording of an on-duty contact with a member of the public may be of future benefit.

At no time should an officer jeopardize his/her safety in order to activate a BWC, change the recording media, or investigate a malfunctioning recorder. However, the BWC is to be activated in situations described above as soon as reasonably practicable.

418.5.1 CESSATION OF RECORDING

Once activated, the BWC should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

Members shall turn off their BWC devices when inside this department building or other law enforcement department buildings. Members shall not activate their BWC anywhere within the department where a reasonable expectation of privacy exists, including, but not limited to, locker rooms, dressing rooms, sleep rooms, restrooms, briefings, lunchrooms, etc. unless such presence is directly relevant to a criminal investigation.

Members shall remain sensitive to the dignity of all individuals being video recorded and exercise sound judgment to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy outweighs any legitimate law enforcement interest in recording.

Members should be mindful of federal HIPPA laws, consider not recording with their BWC, and utilize an alternative audio recorder. Discretionary BWC recording should be utilized when:

- (a) Recording is found to be inappropriate because of a victim or witness age, physical condition, emotional state, or other sensitive circumstances.

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- (b) Recording would violate federal HIPPA laws, such as when the recording would occur at in-patient care area of a hospital, mental health facility, emergency rooms or other health care facility, or medical or psychological evaluations are taking place, unless an enforcement action is taking place.
- (c) If a BWC is activated, care should be taken to record only the person you are speaking with. Avoid recording exposed areas of the body that could cause embarrassment or humiliation unless such condition is relevant to a criminal investigation.

Members may utilize the mute function of the BWC in certain circumstances, but are not limited to the following:

- (a) A health care provider discussing medical issues with a patient.
- (b) An informant or community member requests the BWC be muted before giving confidential or sensitive information and the encounter is non-confrontational.
- (c) While conferring with other members regarding the specifics of tactics or investigative strategies of a call for service.

418.5.2 EXPLOSIVE DEVICE

Many portable recorders, including BWC and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

418.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued BWC and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

418.7 COORDINATOR

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

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- (a) Establishing a system for downloading, storing and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

418.8 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incidents involving use of force by an officer
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against an officer or the Montclair Police Department

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

All other recordings should be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

418.8.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

Medical Marijuana

419.1 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.

419.1.1 DEFINITIONS

Definitions related to this policy include:

Cardholder - A person issued a current identification card.

Compassionate Use Act (CUA) (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

Identification card - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

Medical marijuana - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

Medical Marijuana Program (MMP) (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

Patient - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

Primary caregiver - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

Statutory amount - No more than 8 ounces of dried, mature, processed female marijuana flowers ("bud") or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).

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419.2 POLICY

It is the policy of the Montclair 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 Montclair Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

419.3 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.

419.3.1 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.

419.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

- (a) The information contained in the card is false or falsified.
- (b) The card has been obtained or used by means of fraud.
- (c) The person is otherwise in violation of the provisions of the MMP.
- (d) The person possesses marijuana but not for personal medical purposes.

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Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

419.3.3 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).

419.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

- (a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:
 - 1. The suspect has been identified and can be easily located at a later time.
 - 2. The case would benefit from review by a person with expertise in medical marijuana investigations.
 - 3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.

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4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.
- (b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient's needs:
 1. The amount of marijuana recommended by a medical professional to be ingested.
 2. The quality of the marijuana.
 3. The method of ingestion (e.g., smoking, eating, nebulizer).
 4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
 5. Whether the marijuana is being cultivated indoors or outdoors.
- (c) Before proceeding with enforcement related to collective gardens or dispensaries, officers should consider conferring with a supervisor, an applicable state regulatory agency or other member with special knowledge in this area, and/or appropriate legal counsel (Business and Professions Code § 26010; Business and Professions Code § 26060). Licensing, zoning, and other related issues can be complex. Patients, primary caregivers, and cardholders who collectively or cooperatively cultivate marijuana for medical purposes may be licensed or may have a defense in certain circumstances (Business and Professions Code § 26032; Business and Professions Code § 26033).
- (d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

419.3.5 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).

419.3.6 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).

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- (b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).
- (c) Smoking marijuana (Health and Safety Code § 11362.79):
 - 1. In any place where smoking is prohibited by law.
 - 2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
 - 3. On a school bus.
 - 4. While in a motor vehicle that is being operated.
 - 5. While operating a boat.
- (d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

419.4 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.

419.5 PROPERTY AND EVIDENCE SUPERVISOR RESPONSIBILITIES

The Property and Evidence supervisor should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The Property and Evidence supervisor is not responsible for caring for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Property and Evidence supervisor should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The Property and Evidence 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.

Automated License Plate Readers (ALPRs)

420.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

420.2 POLICY

The policy of the Montclair Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

420.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Montclair Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Support Services Lieutenant. The Support Services Lieutenant will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

420.3.1 ALPR ADMINISTRATOR

The Support Services Lieutenant shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
- (b) Training requirements for authorized users.
- (c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
- (d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
- (e) The title and name of the current designee in overseeing the ALPR operation.
- (f) Working with the Custodian of Records on the retention and destruction of ALPR data.
- (g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

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420.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.
- (f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

420.5 DATA COLLECTION AND RETENTION

The Administration Lieutenant is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

420.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Montclair Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).

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- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

420.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
 - 1. The name of the agency.
 - 2. The name of the person requesting.
 - 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Administration Lieutenant or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

420.8 TRAINING

The Support Services Lieutenant should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

Foot Pursuits

421.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

421.2 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.

421.3 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.

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- (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.

421.4 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.

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- (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.

421.5 RESPONSIBILITIES IN FOOT PURSUITS

421.5.1 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.

421.5.2 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.

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421.5.3 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.

421.5.4 DISPATCH RESPONSIBILITIES

Upon notification or becoming aware that a foot pursuit is in progress, the dispatcher is responsible for:

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the foot pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Watch Commander as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

421.6 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.

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- (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.

Suspicious Activity Reporting

422.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity.

422.1.1 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.

422.2 POLICY

The Montclair 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.

422.3 RESPONSIBILITIES

The Support Services 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 Investigation 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.

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- (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).

422.4 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 non-sworn 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.

422.5 HANDLING INFORMATION

The Records Bureau will forward copies of SARs, in a timely manner, to the following:

- Detective Bureau supervisor
- Crime Analysis Unit
- Other authorized designees

Civil Disputes

423.1 PURPOSE AND SCOPE

This policy provides members of the Montclair 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.

423.2 POLICY

The Montclair 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.

423.3 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.

423.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent

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court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

423.4.1 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.

423.5 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.

423.6 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.

Cite and Release Policy

424.1 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.

424.1.1 DISCRETION TO ARREST

While this department recognizes the statutory power of peace officers to make arrests throughout the state, officers are encouraged to use sound discretion in the enforcement of the law. On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot and/or fresh pursuit, while following up on crimes committed within the City, or while assisting another agency. On-duty officers who discover criminal activity outside the jurisdiction of the City should, when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

Officers are authorized to use verbal warnings to resolve minor traffic and criminal violations when appropriate.

Off-duty officers observing criminal activity should generally take enforcement action only when it reasonably appears that imminent risk to life or property exists and the reasonable opportunity does not exist to contact the law enforcement agency with primary jurisdiction. In such situations the involved officer shall clearly identify himself/herself as a police officer.

424.2 POLICY

It is the policy of the Montclair 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.

424.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private person's arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing officer shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps they deem necessary to ensure that the defendant understands their written promise to appear.

424.4 NON-RELEASE

424.4.1 INFRACTION WARRANTS

Vehicle Code § 40304.5 requires that persons arrested for fewer than three outstanding warrants for failure to appear on a citation for a parking offense or a traffic infraction shall be provided the

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opportunity to immediately post bail and shall not be booked until all of the following requirements have been exhausted:

- (a) If the person has sufficient cash in his/her possession, that person shall be given the opportunity immediately to post bail with the person in charge of the jail or his/her designee.
- (b) If the person does not have sufficient cash in his/her possession, the person shall be informed of his/her rights and be given at least three hours to make at least three completed phone calls to obtain bail.

424.4.2 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

- (a) Misdemeanor domestic battery (Penal Code § 243(e)(1))
- (b) Felony domestic battery (Penal Code § 273.5)
- (c) Serious or violent felonies (Penal Code § 1270.1(a)(1))
- (d) Felony intimidation of witnesses and victims (Penal Code § 136.1)
- (e) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)
- (f) Stalking (Penal Code § 646.9)
- (g) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

424.4.3 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

- (a) The person arrested is so intoxicated that they could be a danger to themselves or to others. Release may occur as soon as this condition no longer exists.
- (b) The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety.
- (c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.

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- (d) There are one or more outstanding arrest warrants for the person (see Misdemeanor Warrants elsewhere in this policy).
- (e) The person could not provide satisfactory evidence of personal identification.
 - 1. If a person released on citation does not have satisfactory identification in their possession, a right thumbprint or fingerprint should be obtained on the citation form.
- (f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.
- (g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.
- (h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
- (i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. Reasons may include:
 - 1. Previous failure to appear is on record
 - 2. The person lacks ties to the area, such as a residence, job, or family
 - 3. Unusual circumstances lead the officer responsible for the release of arrested persons to conclude that the suspect should be held for further investigation
- (j) A previous conviction, citation, or arrest for misdemeanor or felony retail theft from a store in the previous six months.
- (k) There is probable cause to believe that the person arrested is guilty of committing organized retail theft.

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Records Bureau.

424.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to Watch Commander approval, unless any of the following conditions exist:

- (a) The misdemeanor cited in the warrant involves violence.
- (b) The misdemeanor cited in the warrant involves a firearm.
- (c) The misdemeanor cited in the warrant involves resisting arrest.
- (d) The misdemeanor cited in the warrant involves giving false information to a peace officer.
- (e) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.

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- (f) The person requires medical examination or medical care or was otherwise unable to care for their own safety.
- (g) The person has other ineligible charges pending against themselves.
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.
- (i) The person refuses to sign the notice to appear.
- (j) The person cannot provide satisfactory evidence of personal identification.
- (k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

424.5.1 JUVENILE HALL BOOKING

If arrested for a felony, a misdemeanor involving violence, the crime of Penal Code §§ 647(b) or 653.22, or the juvenile is on active probation, the juvenile should be booked at San Bernardino County Juvenile Hall. Prior clearance through the Juvenile Hall Intake Officer is required. Juveniles with medical problems, injuries, or under the influence of alcohol or drugs require a prior hospital clearance.

In addition to the applicable police report documentation, a San Bernardino County Juvenile Application for Petition form (front and back side) must be completed and left at Juvenile Hall. A photocopy (two-sided) shall be obtained by the booking officer and included with the police report.

Depending on the nature of the crime and whether the juvenile is on probation, either 24-hour or 48-hour deadlines for case filing with the Juvenile District Attorney will apply. A chart listing the due date/time for filing is posted in the Records Bureau.

In order to meet the filing deadline and allow time for processing, arrest reports involving juveniles booked at Juvenile Hall shall be turned in to the Records Bureau for processing by the end of the shift on which the arrest occurred.

Records Bureau personnel shall assume the report is due the following court day and assign it priority accordingly.

A notice to appear citation shall not be issued.

424.5.2 JUVENILE TRAFFIC COURT

Certain misdemeanor offenses may be prosecuted through the Juvenile Traffic Court. These offenses are listed in Welfare and Institutions Code § 256. A list of these offenses is located on the Juvenile Court Date reference sheet.

Juvenile Traffic Court is intended for first-time offenders with no prior arrests, with certain exceptions. DUI offenses and curfew violations are exceptions. DUI offenses are subject to the Youth Accountability Policy process regardless if the arrestee has any prior record of arrest. Curfew violations are handled by the assigned court, regardless if the arrestee has any prior

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record of arrest. Refer to the Juvenile Traffic Court Violation list for a detailed list of violations and exceptions.

Juveniles with a prior record of arrest shall be processed utilizing the San Bernardino County Youth Accountability Policy..

To determine the eligibility for Juvenile Traffic Court, the arresting officer shall request Dispatch to run a criminal history inquiry in-house and through the Department of Justice Automated Criminal History System (CHS) to ascertain whether the juvenile has a prior arrest history.

Eligible juveniles shall be booked and released on a notice to appear citation to Juvenile Traffic Court.

When completing the police report, a San Bernardino County Juvenile Application for Petition form is not required.

424.5.3 YOUTH ACCOUNTABILITY POLICY

The San Bernardino County Youth Accountability Program is designed to ensure that parents of juvenile offenders are held accountable for appearing in court along with the juvenile offenders.

The Youth Accountability Policy shall apply under the following circumstances:

- (a) Felony offense, not booked at Juvenile Hall
- (b) Misdemeanor offense, not eligible for Juvenile Traffic Court (refer to the list of eligible offenses located on the reverse side of the Juvenile Court Date reference sheet
- (c) Juveniles with a prior arrest record (except curfew)

To determine the eligibility for the Youth Accountability Program, the arresting officer shall request Dispatch to run a criminal history inquiry in-house and through the Department of Justice Automated Criminal History System (CHS) inquiry to ascertain whether the juvenile has a prior arrest history.

The Youth Accountability Policy requires the juvenile to be booked and released on a notice to appear citation to appear in San Bernardino County Superior Court. In addition to the issuance of a citation to the juvenile, the parent, guardian, or other responsible adult to whom the juvenile is released is to be issued a separate notice to appear citation for Welfare & Institutions Code § 660.5 - Youth Accountability. If multiple juveniles are released to one parent, guardian, or responsible adult, a separate parent citation is required for each juvenile released to that adult.

If a parent, guardian, or other responsible adult is notified but cannot respond to take custody of the juvenile and the juvenile is released, the officer shall make reasonable subsequent attempts to make personal contact with the parent/guardian in order to issue the Welfare & Institutions Code § 660.5 citation. If the parent does not live in the local area, refuses to respond to the station, or cannot otherwise be cited, the citation shall be issued "by complaint" and be mailed by the Records Bureau at the point of report distribution. "By Complaint" shall be written on the signature line of the citation. The attempts to contact the parent/guardian shall be documented in the police

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report. If the parent/guardian refuses to sign the citation, the arresting officer shall write "Refused" on the signature line and provide a copy to the parent/guardian.

In addition to the applicable police report documentation, a San Bernardino County Juvenile Application for Petition form shall be completed (front side only) and included with the police report.

The court date to be assigned is 60 days from the date of arrest. If the 60th day falls on a weekend or holiday, the last court date prior to the weekend or holiday shall be used. The same court date and court location shall be assigned for the juvenile and the parent/guardian.

The report copy is due to the San Bernardino County Juvenile District Attorney's Office within seven calendar days of the arrest. The arrest report shall be turned in for processing without unnecessary delay.

424.5.4 JUVENILE LONG-FORM COMPLAINTS

All reasonable attempts should be made to arrest juvenile offenders if probable cause exists. If the investigating officer is unable to locate the offending juvenile, the report should be completed and a supervisor notified of the circumstances. Under most circumstances, the San Bernardino County Juvenile District Attorney's Office will not accept a case for review without an arrest and/or citation.. All attempts to locate the juvenile offender shall be documented in the police report.

In order to request a long-form complaint, the investigating officer is required to complete an Affidavit in Support of Arrest Warrant. The document template is located on the Department's shared computer data base. Officers may type or dictate the document. Officer shall document the probable cause for the alleged offense(s), in addition to all attempts to locate and arrest the juvenile.

The original document shall be forwarded with the police report copy to the Juvenile District Attorney's Office. A copy of the document shall be retained with the police report.

424.5.5 GLADYS R. QUESTIONNAIRE FORM

A Gladys R. Questionnaire form is required to be completed on arrests of juveniles under 14-years of age. The form includes questions to be asked of the arrestee and of the arrestee's parent/guardian to ascertain if the juvenile understands the difference between right and wrong and the wrongfulness of his/her act(s).

Officers shall only ask the questions on the form after a valid Miranda waiver has been obtained from the arrestee. If the arrestee invokes Miranda, the investigating officer shall attempt to question the arrestee's parent/guardian.

The original completed form shall be included with the police report.

424.5.6 JUVENILE RELEASE FROM CUSTODY

When a juvenile qualifies for release on a notice to appear citation, reasonable attempts shall be made to facilitate the release to his/her parent/guardian. The parent/guardian should be directed to respond to the location of detention to take custody of the juvenile. If the parent/guardian is unable

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to respond, the officer should discuss alternative methods of release with the parent/guardian. These alternative methods include:

- (a) Release the juvenile from the detention location if the release does not place the juvenile in violation of curfew ordinances and does not compromise the safety of the juvenile given his/her age, maturity, distance from home, time of day, familiarity with the area, and ability to reach his/her destination safely
- (b) Release of the juvenile to a responsible adult with the approval of the parent/guardian
- (c) Transport the juvenile to the location of his/her parent/guardian or other responsible adult with the approval of the parent/guardian
- (d) Transport the juvenile to Juvenile Hall
- (e) Contact San Bernardino County Child Protective Services

At the time of release, the officer shall obtain the name, date of birth or driver's license number, and relationship to the minor of the parent/guardian to whom the juvenile is being released and document that information on the Juvenile Detention Log. The signature of that person shall be obtained on the Suspect/Arrestee Booking form.

Juveniles may be detained in the police facility for no longer than six hours. If the officer is unable to notify the parent/guardian of the intent to release the juvenile, the officer shall do one of the following prior to the end of the six-hour time period:

- Transport the juvenile to Juvenile Hall
- Contact San Bernardino County Child Protective Services

The arresting officer shall notify the parent/guardian of the arrest. This may be accomplished by personal notification, telephone, or if unable to contact the parent/guardian at the time of detention, by a Parent Notification Letter.

If the juvenile is released to a person other than the parent/guardian and no personal or telephone notification has been made, a Parent Notification Letter shall be completed. Parent Notification Letters are to be turned in with the police report and mailed by Records Bureau personnel.

424.5.7 JUVENILE ARREST FOR FIGHTING

Pursuant to the San Bernardino County Juvenile Court, when juveniles are arrested for fighting, they shall be issued different court appearance dates.

424.6 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 Montclair City codes

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All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Detective Bureau for further action including diversion.

424.7 COLLECTION OF EVIDENCE FROM ARRESTEES

The evidentiary value of certain evidence from an arrestee's person (e.g., blood, bodily fluids, hairs, fibers, saliva, semen, and other DNA transfer evidence) may dissipate or be destroyed over time, thereby making the timely collection of evidence imperative.

Members should attempt to obtain consent from an arrestee prior to the collection of physical evidence. Should the arrestee refuse to furnish the evidence, the arrestee should be admonished that there is no Constitutional right to refuse to furnish any physical evidence, and that a refusal can be used against him/her in court to show a consciousness of guilt.

Any physical evidence that can be obtained without "shocking the conscience" of the court (reasonable search and seizure) is admissible. When necessary to preserve the integrity of perishable evidence, reasonable force and/or restraint may be used to obtain physical evidence from the arrestee. Reasonable force is the degree of force which is necessary to overcome the arrestee's resistance. In determining what degree of force is reasonable, members should consider the seriousness of the crime, the extent of resistance or force used by the arrestee, the degree of force used by members and whether it threatened the health of the arrestee, and the extent to which the members' force was an affront to the arrestee's personal privacy and bodily integrity.

Collection of evidence from an arrestee's person that will not dissipate or be destroyed over time and that is needed only for the purpose of comparison would not require immediate collection. A search warrant or court order should be obtained for the collection of non-perishable evidence if the arrestee does not consent.

When practicable, a supervisor should be present whenever evidence is forcibly obtained from an arrestee who is uncooperative and has refused to consent. If unable to respond, the supervisor shall be notified of the circumstances. Evidence shall not be forcibly seized from an arrestee without the approval of a supervisor. The amount of force and methods used to obtain the evidence shall be detailed in the crime report.

For specific policies and procedures relating to obtaining evidence from a person arrested for driving under the influence of alcohol, refer to Policy Manual § 514.

424.7.1 SEARCH OF ARREST SCENE

After an arrestee has been secured, the arresting member should search the scene of the arrest for weapons or evidence that may have been concealed, dropped, or thrown away by the arrestee.

After transporting an arrestee, the transporting officer shall search the police unit for weapons and/or evidence left or discarded by the arrestee.

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424.7.2 REASON FOR ARREST

At the time of an arrest, the person arrested has a right to know the reason for such arrest and the member's authority. Members shall inform persons arrested the reason for their arrest as soon as practical.

424.8 CUSTODY

A member making an arrest shall transport the arrestee or cause the arrestee to be transported to the designated booking facility without unnecessary delay or shall release the arrestee pursuant to the applicable provisions of this manual.

At no time shall a member accompany arrestees to their residence or elsewhere, except with the consent of the Watch Commander.

424.8.1 ARRESTEE TELEPHONE CALLS

Arrestees shall be allowed to make local telephone calls without charge. These telephone calls shall be given immediately or as soon as practical. Arrestees shall be allowed to call a relative or other person, a bail bondsman, or an attorney of the prisoner's choice or the public defender at their own expense, if long distance. They shall be allowed at least three completed phone calls. An arrestee who is identified during the booking process as a custodial parent of a minor child is entitled to make two additional (for a total of five) local telephone calls for the purpose of arranging child care.

Immediately upon being brought to the Police Department, and no later than one hour after being taken into custody, a juvenile arrestee shall be advised of the right to make at least two telephone calls from the facility. The arrestee has the right to make one completed call to his/her parent or guardian, a responsible relative, or employer, and another call completed to an attorney. The calls shall be at public expense if the calls are completed to telephone numbers within the local calling area and in the presence of a department member (Welfare and Institutions Code § 627(b)).

424.8.2 APPLICATION FOR WARRANTS

Members shall not apply for or serve a search warrant, except with the knowledge and consent of their supervisor.

424.8.3 ARREST BY WARRANT

All persons arrested on the authority of a warrant of arrest shall be formally booked at a jail facility or released on a notice to appear citation. Service of warrants shall be in compliance with the provisions of state law.

An officer who cite releases an arrestee on a warrant must complete the booking process (prints and photograph). The officer must include the warrant abstract with the arrest report.

When a warrant is confirmed and the arrestee will be cite released, the dispatcher must inform the agency holding the warrant of the intent to cite on the warrant and have the warrant abstract transmitted to the Police Department and forward it to the arresting officer.

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At the time of processing a warrant arrest report in which the arrestee was cite released, the Police Service Specialist shall complete a warrant service return teletype (administrative teletype) indicating the fact that the arrestee was cite released, the citation number, and the appearance date listed on the citation. The citation will be forwarded to the court for processing.

424.8.4 WARRANT ARREST NOTIFICATION

Penal Code §§ 821 and 822 require that a person arrested for a warrant has the right to be booked in the county in which the arrest occurred. The arrestee may waive this right and may be booked in the county issuing the arrest warrant.

If the arrestee waives his/her right to be booked in the county of arrest and acknowledges this waiver by signing a Warrant Arrest Notification form, the arrestee may be released to the law enforcement agency requesting the arrest and booked in the county in which the warrant was issued.

In cases of felony warrants with no bail set, a signed waiver is not required to release the arrestee to the law enforcement agency requesting the arrest.

424.8.5 INTERROGATION OF SUSPECTS/ARRESTEES

Members shall not conduct interrogations of suspects/arrestees in a manner that tends to unlawfully coerce a confession or admission. Members shall not use physical violence or unlawful psychological coercion on the person or the threat of such abuse. Members shall not make false promises of leniency or reward to a suspect/arrestee for the purpose of coercing a confession or admission. Members obtaining a confession or admission must be able to defend its reliability.

424.8.6 ARREST OF TEACHERS AND OTHER SCHOOL EMPLOYEES

Penal Code §§ 291, 291.1, and 291.5 and Health and Safety Code §§ 11591 and 11591.5 require the Chief of Police to make notifications in the event any school employee (public, private, or community college) is arrested for specific sex or controlled substance offenses. In the event a school employee is arrested for any controlled substance offense enumerated in Health & Safety Code § 11590, 11364, in so far as that section relates to paragraph (12) of subdivision (d) of Health and Safety Code § 11054, or for any of the offenses enumerated in Penal Code § 290 or in subdivision 1 of Penal Code § 291 or Education Code § 44010, the Chief of Police or his/her designee is required to immediately report the arrest as follows:

As applicable, the notifications are to be made by telephone and in writing to the superintendent of the school district, the head of the private school or community college, and the State Commission on Teacher Credentialing.

- (a) Arrest of Public School Teacher - Upon arrest for one of the above sections, 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.

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- (b) Arrest of Public School Non-Teacher Employee - Upon arrest for one of the above sections, 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.
- (c) Arrest of Private School Teacher - Upon arrest for one of the above sections, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher.

In order to ensure the Chief of Police is made aware of any such arrest(s) in a timely manner so that the appropriate notifications can be made, it is incumbent upon the arresting officer to inform the Watch Commander when such an arrest occurs. When completing the "occupation" and "business address" section of the Suspect/Arrestee Booking form and San Bernardino County Arrest/Booking Application form, the officer is required to obtain the occupation, business address, and employer name.

Upon notification from the officer that such an arrest has occurred, the Watch Commander shall note the arrest and case number on the Patrol Sergeant's Shift Report.

When processing a report involving the arrest of a school employee for a sex or controlled substance offense, the Police Service Specialist processing the report shall notify the Records Supervisor, who will confirm the Chief of Police is aware of the arrest. The Records Supervisor shall provide the pertinent information for telephone notification to the Chief of Police and prepare the notification letter(s). A copy of the notification letter(s) shall be retained with the police report.

424.8.7 ARREST OF POSTAL AND COMMON-CARRIER EMPLOYEES

Members shall not take into custody, for a minor violation, an on-duty postal employee engaged in the collection or distribution of mail, on-duty public utilities employees, or the on-duty operator of a bus or train. In such cases, the offender shall be summoned to appear in court on a notice to appear citation.

424.8.8 ATTORNEYS AND BONDSMEN

Members shall not suggest or recommend attorneys or bondsmen to arrested persons or their agents.

424.8.9 ARREST OF PEACE OFFICER

Penal Code § 13300(k) provides that a law enforcement agency may release information concerning an arrest or detention of a peace officer or applicant for the position of peace officer as defined in Penal Code §830 to a government agency employer of that person.

When a peace officer has been arrested by this agency, the Watch Commander shall notify Duty Command of the arrest. Depending on the severity of the offense, the Duty Command Officer may instruct the Watch Commander to notify the arrested officer's agency of the arrest.

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424.9 DISMISSAL OF CRIMINAL CHARGES

Members shall not dismiss the charges against an arrested person unless there is sufficient reason and then only with the knowledge and consent of a supervisor in the division responsible for the arrest and in a manner prescribed by law.

424.9.1 COMPROMISE OF CRIMINAL CHARGES

Members shall not permit themselves to become involved in any promise or arrangements between a criminal and a victim whose intent it is to permit the offender to escape the full penalty provided by law.

Members shall not seek to obtain a continuance of a trial, the dismissal of a case, or leniency for the defendant in any court, except with the knowledge and consent of their supervisor, the District Attorney, and the court.

424.10 ARRESTEE FINGERPRINTING

Unless authorized for in-field release without booking as authorized by the Watch Commander, all persons arrested for felonies and misdemeanors shall be fingerprinted, with the following exceptions:

- (a) PC 647(f) - Public Intoxication (alcohol only). Do fingerprint for PC 647(f) - Drugs
- (b) VC 23222(b) - Marijuana in Vehicle (unless arrestee has no ID)
- (c) H&S 11357(b) - Possess Under One Ounce of Marijuana (unless arrestee has no ID)
- (d) H&S 11360(b) - Transport, Sell, etc. Marijuana (unless arrestee has no ID)
- (e) MMC 7.12.010A - Curfew Ordinance
- (f) WIC 601 - Runaway

An arrestee booked at the County jail facility or Juvenile Hall will be fingerprinted at the time of booking by that agency, eliminating the need for the arresting officer to independently obtain fingerprints.

Welfare and Institutions Code §§ 300 and 5150 detentions do not require fingerprints.

Fingerprints are always to be transmitted electronically on the live-scan machine. If the live-scan machine is inoperable and fingerprint cards must be done, three cards are required. Use only the FD-249 (rev. 12-1-94) white cards with red lines. Do not use highlighter on the cards. The fingerprint cards are to be turned in with the police report.

When entering data into the livescan system, all booking charges shall be entered.

When entering data into the livescan system, the number "221" shall be added to the end of the arrest number.

424.11 ARRESTEE MEDICAL SCREENING

Prior to placing any arrestee into a holding cell, the arresting officer shall complete a Montclair Police Department Medical Screening form. If the arrestee shows obvious symptoms suggesting

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the need for emergency medical treatment, the officer shall seek such treatment without delay. Arrestees who appear to be unable to care for their safety or the safety of others due to an intoxicated state or are suicidal shall not be placed into a holding cell. The Medical Screening form shall be turned in with the crime report.

Foreign Diplomatic and Consular Representatives

425.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Montclair Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

425.2 POLICY

The Montclair 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.

425.3 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.

425.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
 - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
 - 1. Diplomatic-level staff of missions to international organizations and recognized family members
 - 2. Diplomatic agents and recognized family members
 - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
 - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
 - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
 - 2. Support staff of missions to international organizations
 - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
 - 4. Honorary consular officers
 - 5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.

425.5 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.

425.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

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Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

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- (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.

Contacts and Temporary Detentions

426.1 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.

426.1.1 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.

426.2 POLICY

The Montclair Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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426.3 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 Montclair Police Department to strengthen community involvement, community awareness, and problem identification.

426.3.1 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

426.3.2 FIELD INTERVIEW CARD

When conducting a field interview, an FI number shall be obtained from Dispatch by the officer conducting the interview and an FI card shall be completed. Multiple subjects may be interviewed under a single FI number; however a separate FI card for each subject is required. FI cards shall be completed legibly and accurately. If a name check reveals a Supervised Release File (SRF) or a sex or arson registrant record, an FI card shall be completed and the applicable notation shall be made on the FI card. The applicable checkbox indicating whether the subject was or was not arrested is to be marked and pertinent information regarding registrant type (sex or arson), contact circumstances, and vehicle are to be documented on the FI card. All FI cards should include some narrative information.

When applicable, gang information shall be listed on the FI card by thoroughly completing the gang information fields and checkboxes. This information is required in order for the FI information to be entered into the Cal-Gang System.

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In the event of an "SRF" hit, the dispatcher shall print a copy of the record and place it into the SRF file in Dispatch. Records personnel will be responsible for obtaining the SRF hit records daily and completing the SRF contact messages.

FI cards shall be turned in for processing by the end of the shift on which the field interview occurred. FI cards are to be deposited into the mailbox slot designated for FI cards located in the copy room.

Records Bureau is responsible for tracking and data entry of the FI card information into the Records Management System (RMS) and the Cal-Gang System. Other department members may periodically be assigned to assist with data entry of FI cards. Once data entry is complete, FI cards are boxed according to year and are stored in the Records Bureau.

426.4 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.
- (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.

426.5 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.

426.5.1 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.

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426.5.2 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.

426.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Watch Commander with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Watch Commander should review and forward the photograph to one of the following locations:

- (a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Watch Commander will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.
- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Bureau.

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.

426.5.4 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.

426.6 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

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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 Montclair 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.

426.7 DIGITAL PHOTOGRAPHS

The digital camera should be used when taking FI photographs. 35 mm film should not be used.

426.7.1 DIGITAL CAMERA REQUIREMENTS

Only department issued digital cameras shall be used to take digital photographs. Under no circumstance are members allowed to use their own personal cameras or cell phone cameras.

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427.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Montclair Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

427.1.1 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.

427.2 POLICY

The Montclair 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.

427.3 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.

427.3.1 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 Bureau. Any supporting documentation for an entry shall be retained by the Records Bureau in accordance

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with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Records Bureau are appropriately marked as intelligence information. The Records Supervisor may not purge such documents without the approval of the designated supervisor.

427.3.2 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 Bureau after appropriate database entries are made. The supervisor should clearly mark the report/FI as gang intelligence information.

It is the responsibility of the Records Bureau supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

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Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

427.4 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.

427.4.1 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.

427.5 INFORMATION RECOGNITION

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Support Services Lieutenant to train members to identify information that may be particularly relevant for inclusion.

427.6 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

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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.

427.7 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.

427.8 TRAINING

The Support Services Lieutenant 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.

427.8.1 SHARED GANG DATABASE TRAINING

The Support Services Lieutenant 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

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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).

Medical Aid and Response

428.1 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.

428.2 POLICY

It is the policy of the Montclair Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

428.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact Dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
 - 1. Signs and symptoms as observed by the member.
 - 2. Changes in apparent condition.
 - 3. Number of patients, sex, and age, if known.
 - 4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
 - 5. Whether the person is showing signs or symptoms of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

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428.4 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.

428.5 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.

428.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

428.7 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

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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.

428.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

A member may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course (22 CCR 100014; 22 CCR 100017; 22 CCR 100018). AED devices shall be utilized in compliance with the Automated External Defibrillator (AED) policy.

428.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Civil Code § 1714.22; Business and Professions Code § 4119.9).

428.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Support Services Lieutenant.

Any member who administers an opioid overdose medication should contact Dispatch as soon as possible and request response by EMS.

428.9.2 DESTRUCTION OF OPIOID OVERDOSE MEDICATION

The Support Services Lieutenant shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

428.9.3 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate report.

The Support Services Lieutenant will ensure that the Records Supervisor is provided enough information to meet applicable state reporting requirements.

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428.9.4 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).

428.9.5 OPIOID OVERDOSE MEDICATION TRAINING

The Support Services Lieutenant 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).

428.10 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

428.11 FIRST AID TRAINING

The Support Services Lieutenant 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).

Mobile Audio/Video

429.1 PURPOSE AND SCOPE

The Montclair Police Department has equipped marked patrol cars with Mobile Audio/Video (MAV) recording systems to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

429.1.1 PRIVACY

The MAV system electronically collects and retains data whenever the system is turned on. The data collected and retained includes the police vehicle's location, direction of travel, and speeds at specific times. This data is embedded within and associated with recorded events.

429.2 POLICY

It is the policy of the Montclair Police Department to use mobile audio and video technology to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently.

429.3 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field. At the end of the shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment. Each officer should have adequate recording media for the entire duty assignment. In the event an officer works at a remote location and reports in only periodically, additional recording media may be issued. Only Montclair Police Department identified and labeled media with tracking numbers is to be used.

At the start of each shift, officers should test the MAV system's operation in accordance with manufacturer specifications and department operating procedures and training.

System documentation is accomplished by the officer recording his/her name, serial number, badge or PIN number and the current date and time at the start and again at the end of each shift. If the system is malfunctioning, the officer shall take the vehicle out of service unless a supervisor requests the vehicle remain in service.

429.3.1 REQUIRED ACTIVATION OF MAV

This policy is not intended to describe every possible situation where the system may be used, however there are many situations where the use of the MAV system is appropriate. In addition to the required situations, officers may activate the system any time he/she believes its use would be appropriate and/or valuable to document an incident. In some circumstances it is not possible to capture video images of the incident due to conditions or location of the camera, however the audio portion can be valuable evidence. Officers may utilize the audio recording function of the MAV to supplement belt recorders when appropriate. When it is likely video images will be captured, the activation of the MAV system is required in any of the following situations:

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- (a) All field contacts involving actual or potential criminal conduct, within video range, which includes:
 - 1. Vehicular pursuits
 - 2. Suspicious vehicles
 - 3. Arrests
 - 4. Pedestrian checks
 - 5. DUI investigations including field sobriety tests
 - 6. Consensual encounters
- (b) All self-initiated activity in which an officer would normally notify Dispatch
- (c) Any call for service involving a crime where video recordings may aid in the apprehension and/or prosecution of a suspect, such as:
 - 1. Domestic violence calls
 - 2. Disturbance of peace calls
 - 3. Offenses involving violence or weapons
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- (e) Any other circumstances where the officer believes that a recording of an incident would be appropriate

Officers should consider activation of the MAV while responding in-progress calls where video images may capture suspects and suspect vehicles fleeing the location of the incident.

Once the MAV system is activated, it shall remain on and shall not be turned off until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when contact with suspects/violators at the scene have ceased. In the event a suspect is transported, the MAV may be activated to record the suspect's statements. Whenever the MAV is placed in stand-by mode and the situation changes to a condition reasonably warranting its use, the MAV shall be reactivated. In any event, the officer shall keep his/her portable audio/video recorder activated pursuant to the Portable Audio/Video Recorders Policy.

429.3.2 EVENT TAGGING

At the conclusion of an incident, the officer is required to stop the recording manually. The recording will not automatically stop after the emergency lights are deactivated. After the recorder is stopped, the system will prompt the officer to "tag" the event and enter an incident number. The officer shall "tag" the event by selecting the activity from a list of event types (i.e. Felony, Misdemeanor, Traffic Citation, Pursuit, D.U.I. etc.). If the incident results in the investigation of any felony crime, it shall be tagged as a "felony"; otherwise, the event shall be tagged with the applicable event type.

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After entering the event type, the officer will be prompted to enter an "incident number". When applicable, the officer shall enter the case number, citation number, or field interview number in the following formats:

- Case Number, CRyy#### (CR123456)
- Field Interview Number, Flyy#### (FI123456)
- Citation Number (without year), CI##### (CI123456)

If, prior to entering the tags, the system is reactivated to record mode, the system will bypass the incident type/number prompts and a new event will begin. The officer shall, prior to the end of shift, search for and tag the previous event as required. Once the event had been uploaded to the server, the event may be tagged using the Evidence Library user interface.

429.3.3 RECORD-AFTER-THE-FACT

The MAV system continually buffers video to its hard drive anytime the system is on (Record-After-the-Fact™). Background recording does not capture audio. Unless manually saved as an event by the officer, buffered events will not upload to the evidence server. Buffered video will remain on the unit's hard drive for at least 20 hours of run-time (powered on) before being overwritten. Background recording may be useful for unplanned events or when the officer is unable to activate the system manually. In order to search the hard drive for buffered media, the user must "create" an event using start and end times. Once created, the event may be reviewed in the unit and will be automatically uploaded to the Evidence Library.

Anytime an officer believes the MAV has captured buffered content of evidentiary value, he/she shall, as soon as practicable, create, save, and tag the recording as an event utilizing the in-car interface. If the search nets content of evidentiary value, the event should be tagged pursuant to Policy § 446.3.2, Event Tagging along with the incident number. If the search returns nothing of evidentiary value, the event should be tagged "Background Recording Only" along with an incident number, if applicable.

Most officers have only limited access to buffered media and may only access their own video footage. Once the user logs off, he/she can no longer access background data. Only system administrators/managers (members of Command Staff and I.T.) have full access to buffered media and have the ability to conduct broad searches. In the event an officer believes the MAV has captured content of evidentiary value and the member is unable access to the video footage, he/she shall notify the Watch Commander. The Watch Commander should ensure the unit is taken out of service to prevent the buffered media from being overwritten. The Watch Commander shall notify the Duty Commander who will respond to access the media, or provide further guidance.

429.4 ACTIVATION OF THE MAV

Recordings may be reviewed in any of the following situations:

- (a) By a supervisor investigating a specific act of misconduct
- (b) By a supervisor for the purpose of evaluating the performance of his/her subordinates

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- (c) By a member who is participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (d) By a member reviewing his/her own recording
- (e) By court personnel through proper process or with permission of the Chief of Police or his/her designee
- (f) By media personnel with permission of the Chief of Police or his/her designee
- (g) By a supervisor or member of Command Staff to assess proper functioning of MAV systems

In no event shall any recording be used or shown for the purpose of ridicule or embarrassing another person.

429.5 REVIEW OF MAV RECORDINGS

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the agency is strictly prohibited, except to the extent permitted or required by law.

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the department MAV technician or forensic media staff. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recordings may be reviewed in any of the following situations:

- (a) For use when preparing reports or statements
- (b) By a supervisor investigating a specific act of officer conduct
- (c) By a supervisor to assess officer performance
- (d) To assess proper functioning of MAV systems
- (e) By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By department personnel who request to review recordings
- (g) By an officer who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment
- (h) By court personnel through proper process or with permission of the Chief of Police or the authorized designee
- (i) By the media through proper process or with permission of the Chief of Police or the authorized designee
- (j) To assess possible training value

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- (k) Recordings may be shown for training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection

Employees desiring to view any previously uploaded or archived MAV recording should submit a request in writing to the Watch Commander. Approved requests should be forwarded to the MAV technician for processing.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

429.6 DOCUMENTING MAV USE

Once uploaded to the Evidence Library, recordings will be retained for a minimum of one year (Government Code § 34090.6).

Generally, the Evidence Library is configured to retain traffic stop/subject check recordings (non-arrest) for one year, misdemeanor recordings for two years, and felony recordings indefinitely. Users have the ability to extend the length of retention of a recording through the Evidence Library's user interface.

In the event a member believes a recording should be retained beyond the default retention period, a supervisor shall be notified who may authorize the user to extend the retention period.

429.6.1 COPIES OF VIDEO RECORDINGS

Original video recording media may only be released in response to a valid court order, to the District Attorney's Office for the purpose of criminal prosecution, or upon approval by the Chief of Police or the Captain. Members are prohibited from recording MAV video images with cell phones or other video recording devices.

Public Recording of Law Enforcement Activity

430.1 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.

430.2 POLICY

The Montclair 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.

430.3 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.

430.4 OFFICER RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an

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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.

430.5 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.

430.6 SEIZING RECORDINGS AS EVIDENCE

Officers should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 - 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 - 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
 - 2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

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Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

First Amendment Assemblies

431.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

431.2 POLICY

The Montclair 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.

431.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Officers should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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431.3.1 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.

431.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

431.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

431.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.

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- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

431.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

- (a) Command assignments, chain of command structure, roles and responsibilities.
- (b) Staffing and resource allocation.
- (c) Management of criminal investigations.
- (d) Designation of uniform of the day and related safety equipment (e.g., helmets, shields).
- (e) Deployment of specialized resources.
- (f) Event communications and interoperability in a multijurisdictional event.
- (g) Liaison with demonstration leaders and external agencies.
- (h) Liaison with City government and legal staff.
- (i) Media relations.
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief and transportation.
- (k) Traffic management plans.
- (l) First aid and emergency medical service provider availability.
- (m) Prisoner transport and detention.
- (n) Review of policies regarding public assemblies and use of force in crowd control.
- (o) Parameters for declaring an unlawful assembly.
- (p) Arrest protocol, including management of mass arrests.
- (q) Protocol for recording information flow and decisions.
- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.
- (s) Protocol for handling complaints during the event.

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- (t) Parameters for the use of body-worn cameras and other portable recording devices.

431.5.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

431.6 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.

431.7 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 conducted energy devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

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Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

431.8 USE OF KINETIC ENERGY PROJECTILES AND CHEMICAL AGENTS FOR CROWD CONTROL

Kinetic energy projectiles and chemical agents for crowd control purposes shall only be deployed by officers who have received POST training for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including an officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control and in accordance with the following requirements of Penal Code § 13652.

- (a) De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.
- (b) Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
- (c) Individuals are given an objectively reasonable opportunity to disperse and leave the scene.
- (d) An objectively reasonable effort has been made to identify individuals engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of individuals.
- (e) Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
- (f) Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.
- (g) An objectively reasonable effort has been made to extract individuals in distress.
- (h) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.
- (i) Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.
- (j) Kinetic energy projectiles or chemical agents shall not be used solely due to any of the following:
 - 1. A violation of an imposed curfew.
 - 2. A verbal threat.

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3. Noncompliance with a law enforcement directive.
- (k) If the chemical agent to be deployed is tear gas, only an Incident Commander at the scene of the assembly, protest, or demonstration may authorize its use.

431.8.1 USE SUMMARY

The Field Services Lieutenant or the authorized designee should ensure that a summary of each deployment of kinetic energy projectiles or chemical agents for crowd control purposes is prepared and published on the department website within 60 days of each incident. The time frame may be extended for another 30 days where just cause is demonstrated, but no longer than 90 days from the time of the incident. The summary shall be limited to the information known to the Department at the time of the report and include the information required in Penal Code § 13652.1.

431.9 ARRESTS

The Montclair 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).

431.10 MEDIA RELATIONS

The Public Information Officer should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

431.10.1 MEDIA ACCESS

If officers close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest,

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or rally where individuals are engaged in a protected activity pursuant to the First Amendment, officers shall comply with the requirements of Penal Code § 409.7 relating to media access (i.e., access to closed areas, obtaining information) (Penal Code § 409.7).

431.11 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.

431.12 POST EVENT

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

- (a) Operational plan
- (b) Any incident logs
- (c) Any assignment logs
- (d) Vehicle, fuel, equipment and supply records
- (e) Incident, arrest, use of force, injury and property damage reports
- (f) Photographs, audio/video recordings, Dispatch records/tapes
- (g) Media accounts (print and broadcast media)

431.12.1 AFTER-ACTION REPORTING

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Problems identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

431.13 TRAINING

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The Department should, when practicable, train with its external and mutual aid partners.

Officers should also receive periodic training on the standards for the use of kinetic energy projectiles and chemical agents for crowd control purposes as identified in Penal Code § 13652.

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431.14 ANTI-REPRODUCTIVE RIGHTS CALLS

Officer response to public assemblies or demonstrations relating to anti-reproductive rights should be consistent with this policy (Penal Code § 13778.1).

Crisis Intervention Incidents

432.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis, including persons who are in custody. 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.

432.1.1 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.

432.2 POLICY

The Montclair 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.

432.3 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

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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.

432.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police should designate an appropriate 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.

432.5 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.

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- (k) If circumstances reasonably permit, consider and employ alternatives to force.

432.6 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.

432.7 INCIDENT ORIENTATION

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

432.8 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

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- (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 Lieutenant.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

432.9 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.

432.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

432.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

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Crisis Intervention Incidents

432.11 EVALUATION

The 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.

432.12 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).

Homeless Persons

433.1 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 Montclair Police Department recognizes that members of the homeless community are often in need of special protection and services. The Montclair 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.

433.1.1 POLICY

It is the policy of the Montclair 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.

433.2 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.

433.2.1 OTHER CONSIDERATIONS

Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.
- (e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Senior and Disability Victimization Policy.

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- (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.

433.3 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. When practicable, requests by the public for clean-up of a homeless encampment should be referred to a supervisor.

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 a supervisor 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 supervisor to address the matter in a timely fashion.

433.4 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.

433.5 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

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has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

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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 Montclair 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:

500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

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500.3.2 CITATIONS

Citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Officers should provide the following information at a minimum:

- (a) Explanation of the violation or charge
- (b) Court appearance procedure including the optional or mandatory appearance by the motorist
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

500.3.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

- (a) Vehicular manslaughter
- (b) Felony and misdemeanor driving under the influence of alcohol/drugs
- (c) Felony or misdemeanor hit-and-run
- (d) Refusal to sign notice to appear
- (e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

500.3.4 FAILURE TO SIGN CITATION

If a motorist refuses to sign the notice to appear citation, the officer should advise the motorist that failure to sign the citation will result in physical arrest. If the motorist continues to refuse to sign the citation, the Watch Commander should be called to the scene before the driver is taken into custody. The officer shall activate his/her digital audio recorder for the duration of the contact.

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

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by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

500.5.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be 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 issued to all members of the Montclair Police Department who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment. Before going into service each employee shall ensure a serviceable high-visibility vest is readily available should its use be required.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Support Services Lieutenant should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

Traffic Collision Reporting

501.1 PURPOSE AND SCOPE

The Montclair Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM) and as a public service makes copies of traffic collision reports available to the involved parties pursuant to the provisions of Vehicle Code § 20012.

501.2 RESPONSIBILITY

The Field Services Lieutenant will be responsible for maintaining a copy of the Collision Investigation Manual (CIM) in the Watch Commander's office. The Field Services Lieutenant will receive all updates to the CIM and ensure department reporting policy conforms with the CIM.

501.3 TRAFFIC COLLISION REPORTING

All traffic collision reports taken by members of this department shall be forwarded to the Records Bureau for processing. The Records Supervisor will print out a monthly traffic collision summary and provide a copy of the summary to the City Traffic Engineer.

501.3.1 CITATIONS ISSUED FOLLOWING A TRAFFIC COLLISION

Notwithstanding any other provision of law, a peace officer who has successfully completed a course or courses of instruction, approved by the Commission on Peace Officer Standards and Training (POST), in the investigation of traffic accidents may prepare, in triplicate, on a form approved by the Juridical Council, a written notice to appear when the peace officer has reasonable cause to believe that any person involved in a traffic accident has violated a provision of this code not declared to be a felony or a local ordinance and the violation was a factor in the occurrence of the traffic accident (Vehicle Code § 40600).

The officer shall list the CR number of the traffic collision report on the notice to appear citation.

501.4 REPORTING SITUATIONS

501.4.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES

On all reports of traffic collisions requiring a police response, a community service officer (CSO) will be dispatched as the primary unit to handle the call. In addition to the CSO, a uniformed officer (either traffic or beat unit) will be dispatched as the secondary unit. If, upon arrival, the traffic collision is determined to involve a crime, fatality, or potentially involve significant liability to the City, then the officer dispatched to the call will become primary on the investigation. This does not, however, preclude the CSO from assisting the officer (with the approval of the Watch Commander) by completing the traffic collision report portion of the investigation.

If the traffic collision does not involve any of the above and the scene does not require the officer to stand by to keep the peace or assist with traffic control, then the officer should clear and resume his/her normal patrol responsibilities.

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If a CSO is not available or has an extended response time, then the beat unit or traffic officer dispatched to the call will handle the investigation without delay. Under no circumstances should the officer dispatched to the call ask Dispatch if there is a CSO available to handle the investigation.

A traffic collision report shall be taken in cases of traffic collisions involving death or injury, commission of a felony crime, or commission of a misdemeanor crime having sufficient suspect information to warrant follow-up investigation or arrest.

A traffic collision report shall be taken when the collision involves a City of Montclair vehicle or potential city liability. This applies regardless if the collision occurs on the public street or on private property.

A traffic collision report shall be made in cases of other collisions occurring on the public street if either party requests or demands that a report be taken. If another city, county, or state vehicle is involved in a collision, a report shall be taken upon request. A traffic collision report shall be completed by this department for traffic collisions involving on-duty police or fire vehicles, regardless of origin of the agency.

A traffic collision report will not be taken by police personnel in cases of "property damage only" collisions and with no crime involved and occurring on private property. Drivers involved in these collisions may obtain a CHP 555-03 form from the Records Bureau. The drivers are to complete the form and turn it in to the Records Bureau, at which time a case number will be issued. A separate form is to be completed by each driver under the same case number.

Traffic collisions in county jurisdiction shall be handled by the California Highway Patrol.

Traffic collisions involving occupied school buses shall be investigated by California Highway Patrol. Traffic collisions involving school buses not occupied by students may be investigated by this department.

It is important for parties involved in a traffic collision to exchange information with other involved parties for insurance purposes. This information will usually be needed by the parties prior to being able to obtain a copy of their traffic collision report. When a member responds to the scene of a traffic collision, the member shall advise the parties involved of the need to exchange information with the other party, regardless if a report was taken. Traffic collision information cards may be given to the parties to use for this purpose.

Members may advise the parties of the requirement to report any traffic collision involving damage to either vehicle of \$750 or more or bodily injury to the Department of Motor Vehicles within ten days on an SR-1 form (Vehicle Code § 16000). The SR-1 form may be obtained from a DMV office or on the DMV website.

Photographs shall be taken when the traffic collision results in a fatality or a criminal investigation. Photographs may, at the discretion of the reporting officer or CSO, be taken at collision scenes involving injury. Photographs should not be taken at non-injury collision scenes unless the collision involves City personnel, a City vehicle, or potential liability for the City.

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No peace officer, member of the California Highway Patrol, or firefighter shall be required to report to his/her insurance company any accident in which he/she is involved while operating an authorized emergency vehicle, employer-leased, or employer-rented vehicle in the performance of his/her duties during the hours of his/her employment to any person who has issued that peace officer, member of the Highway Patrol, or firefighter a private automobile insurance policy (Insurance Code §§ 557.5 and 488.5). An authorized emergency vehicle is defined in Vehicle Code § 165, which generally includes, but is not limited to law enforcement vehicles operated by a peace officer or fire engines.

When distributing a traffic collision report involving an on-duty peace officer, member of the California Highway Patrol, or firefighter operating an authorized emergency vehicle, Records Bureau personnel shall ensure the copy of the report distributed to the California Highway Patrol is stamped with the "Authorized Emergency Vehicle" stamp so that the collision does not get reported on the involved member's driver history record. If such a collision is reported to DMV in error, the involved member should contact the Records Supervisor so that notification can be made to the DMV to remove the information from the driver history record.

When investigating an on-duty emergency vehicle collision involving a peace officer, members shall not list the involved officer's home address or telephone number. The officer's agency address and telephone number shall be used in place of the home address and telephone number. The officer's driver's license number and date of birth shall be listed. This applies to peace officers from any agency.

When investigating a collision involving any other member of this department or the Fire Department driving a department vehicle (e.g., cadet truck, CSO vehicle), the agency address and telephone number shall be listed in place of the home address and telephone number. The member's driver's license and date of birth shall be listed.

When investigating a collision involving members of the department or members of another law enforcement agency who are not on-duty at the time of the collision, the member's home address and telephone number, driver's license number, and date of birth shall be listed on the collision report.

501.4.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES

The procedures established in the Collision Investigation Manual (CIM) shall be followed in preparation of traffic collision reports.

The criteria for traffic collision report documentation is:

- (a) Non-injury with two or fewer parties involved - CHP 555-03 form (Traffic Collision Report Property Damage Only form).
 - 1. Complete the top half of the form, including the CR number, while at the scene.
 - 2. Give each party one of the NCR pages to serve as their exchange of information, then complete the check boxes and narrative on the back side while at the scene or at a later time.

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- (b) Non-injury with more than two parties involved - CHP 555 form (pages 1 through 4 as applicable) and CHP 556 form (narrative)
- (c) Injury, fatal, crime involved, or city employee/vehicle involved - CHP 555 form (pages 1 through 4 as applicable) and CHP 556 form (narrative).
 - 1. For fatal collisions or those involving in-depth investigations, the narrative portion of the traffic collision report may be handwritten, typed by the reporting officer, or dictated and typed by Records Bureau personnel. Injuries are considered any visible injury or complaint of pain. Descriptions of injuries are to be documented on the CHP 555 form (Injured/Witness/Passengers).
 - 2. In the reports of misdemeanor crimes (e.g., driving under the influence, hit and run collisions) statements will be taken in the place of a brief summary. A continued handwritten collision narrative will be on a traffic collision supplemental form (CHP 556 form). A supplemental crime report shall be used to record all criminal investigation details pertaining to the collision and any arrest.
- (d) Non-injury on private property - CHP 555-03 form may be completed by involved parties at the Police Department.
- (e) Officers using digital diagramming software (SOKIA) for diagramming traffic collision scenes shall include a heading of digital notes in the traffic collision report. The notes shall be copied to CD, booked into evidence, and deleted from the computer.
- (f) All traffic collision reports prepared in full-investigative format should be forwarded to the Accident Investigation Team Lieutenant for review and approval.

501.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS

Members shall immediately report any on-duty traffic collision to the Watch Commander, regardless of the severity of the collision.

The Watch Commander shall respond to the scene and shall supervise the investigation of traffic collisions occurring in the City involving on-duty City personnel. If there is serious injury or death, the Duty Commander shall be notified.

In cases of traffic collision damage to a City vehicle, equipment, and/or injury to City personnel, a Supervisor's Report of Accident form must be completed within 24 hours of the incident by the involved member's supervisor.

After processing by the Records Bureau, the traffic collision report will be forwarded to the Accident Investigation Team Lieutenant for approval. No copy of the collision report may be released or distributed prior to the Lieutenant's approval. After approval, a copy of the report shall be forwarded to the Captain for subsequent review.

For collisions involving police personnel, the Captain will have the responsibility to review the collision report and determine the preventability of the collision. The Captain shall document his/her findings and forward a copy of the findings to the involved member and the Chief of Police.

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The original finding memorandum shall be placed in the involved member's personnel file.

501.4.4 EMERGENCY RESPONSE AND RECOVERY OF COSTS

Government Code §§ 53150 through 53158 enable local jurisdictions to recover the costs for emergency responses to incidents involving operators of motor vehicles who are under the influence of an alcoholic beverage and/or drugs. "Emergency response" means appropriate emergency response to the incident; police, fire, rescue, and emergency medical services at the scene of the incident. An "emergency response" shall include, but not be limited to medical assists and traffic accidents. It does not include routine traffic stops or activity after leaving the incident scene.

The Emergency Response Expense form shall be completed by the reporting member of an emergency response to an incident involving any person operating a motor vehicle while under the influence of an alcoholic beverage and/or drug. In determining "actual time expended," the member should use the time dispatched as a starting point and clearance from the scene as the ending. The completed form shall be reviewed by the Field Services Lieutenant and forwarded to the City Finance Department to begin the collections process.

501.4.5 PARTY STATEMENTS AS ATTACHMENTS

In the event a party to a traffic collision wants to attach a written statement to the traffic collision investigation report completed by department personnel, the involved party may do so by writing or typing the statement on a blank piece of paper. CHP traffic collision forms shall not be provided to the involved parties for this purpose.

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 Montclair 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 be given to the tow truck operator, and the original shall be submitted to the Records Bureau as soon as practicable after the vehicle is stored.

502.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Dispatch.

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the official towing garage for the City of Montclair. 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:

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- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Department will not be responsible for theft or damages.

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 BUREAU RESPONSIBILITY

Records personnel shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System and return the form to the Watch Commander for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

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Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by mail as applicable and as provided in Vehicle Code § 22851.3(d), Vehicle Code § 22852(a), and Vehicle Code § 14602.6(a)(2). The notice shall include the following (Vehicle Code § 22852(b)):

- (a) The name, address, and telephone number of this Department
- (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

502.2.8 VEHICLES IMPOUNDED AS EVIDENCE

This sub-section applies to vehicles impounded for investigation or as evidence under Vehicle Code Sections 22655(a), 22655.3, 22655.5(a), and 22655.5(b). The Police Services Specialist processing the CHP 180 form shall make a photocopy of the CHP 180 form, note "DB Sergeant" at the top, and highlight both that notation and the storage authority section with a yellow highlighter. The copy is to be placed in the Detective Bureau mailbox for the Detective Bureau Sergeant. The Detective Bureau Sergeant will maintain a file consisting of CHP 180 forms for vehicles impounded for investigation or evidence, and shall be required to check the file bi-weekly to determine if the vehicles are eligible for release.

The officer, detective, or supervisor who makes a determination that a vehicle impounded as evidence no longer needs to be held shall make a notation on the original CHP 180 form indicating the vehicle is available for release and shall make reasonable attempts to notify the owner that the vehicle is available for release. The date and time of the notification shall be documented on the CHP 180 form.

Vehicles impounded under Vehicle Code Section 22655(a) for involvement in a hit-and-run collision, unless sooner released, shall be authorized for release upon the expiration of 48 hours after the removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included (Vehicle Code § 22655(b)).

502.2.9 FELONY VEHICLES-ENTRY INTO SVS

Officers investigating a felony during which a vehicle was utilized in the commission of the crime may request entry of the vehicle into the CLETS Stolen Vehicle System (SVS) as a "Felony

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Vehicle." A "Felony Vehicle" is a vehicle that was involved in the commission of a felony crime, or a vehicle subject to seizure based upon a court order. Felony vehicle entries shall not be made if the sole purpose is to locate and interview the occupants of the vehicle or when the only link between the vehicle and the crime is a DMV registration record showing that the suspect is the registered or legal owner of the vehicle. Felony vehicle entries shall not be made in misdemeanor or infraction cases. If the suspect(s) have been apprehended, a felony vehicle entry is still valid providing the whereabouts of the vehicle is unknown and the vehicle is still of evidentiary value.

A license plate used in the commission of a felony may be entered as a "Felony License Plate." For example, a felony license plate record may be entered if the officer has identified a robbery gang which switches certain license plates from vehicle to vehicle when committing robberies. Also, if the license plate number of a vehicle used in the commission of a felony has been obtained, but the make of the vehicle is unknown, a felony license plate record can be entered.

Officer Responsibility:

Any officer wishing to enter a felony vehicle or license plate into SVS shall complete a CHP 180 form, listing "Felony Vehicle" or "Felony License Plate" at the top of the form. On the narrative section of the form, the officer shall minimally include a description of the crime (e.g., robbery, homicide, hit-and-run). If available, the officer shall list a brief description of the suspect(s) in the narrative section of the form. Once completed, the officer shall deliver the CHP 180 form to the station to be entered into SVS without unnecessary delay.

Any officer, Dispatcher, or Police Services Specialist who locates or receives information the felony vehicle or license plate number is no longer valid, or that the entry requires modification due to the suspect being located, shall ensure the proper changes are made to the SVS system. The changes are initiated by promptly notifying Dispatch or the Records Bureau that the suspect has been located, or that the vehicle has been located and needs to be removed from the SVS system.

A felony vehicle may be left in the SVS system after the suspect is apprehended only if the vehicle is still of evidentiary value. When a previously entered felony vehicle is located, the officer shall complete a separate CHP 180 form as a "Locate" to remove the felony vehicle or license plate from the SVS system. This CHP 180 form shall promptly be completed and turned into the Records Bureau or Dispatch. The reporting officer shall minimally document on the CHP 180 form the circumstances regarding locating the vehicle.

If a felony vehicle entered by an outside agency is located, the officer shall ensure the originating agency is contacted and notify of the circumstances. If necessary, the locating officer may need to complete a locate and a CHP 180 form on the vehicle for the outside agency.

Records/Dispatch Responsibility:

Upon receipt of the CHP 180 form from the officer, the Dispatcher or Police Services Specialist shall enter the vehicle into SVS as a felony vehicle or felony license plate without unnecessary delay. The SVS entry shall be checked for accuracy by a second dispatcher or by Records

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Bureau personnel. When modification of the entry is required, such modification shall be completed promptly. All entries shall be made in compliance with DOJ guidelines.

Felony vehicle records will automatically purge from the system after 90 days. Felony vehicle entries for vehicles involved in the commission of a crime must include the description of the crime (e.g., robbery, homicide, hit-and-run) and, if available, a brief description of the suspect(s). After entering the felony vehicle or plate into SVS, Records Bureau personnel shall forward a copy of the CHP 180 form to the Watch Commander and Detective Bureau Supervisor.

Detective Bureau Responsibility:

The Detective Bureau Supervisor receiving a copy of the felony vehicle CHP 180 form shall assign the case to a detective. That detective shall regularly monitor the case to determine if the vehicle or plate should remain in SVS as a felony vehicle. The Detective Bureau Supervisor shall notify the Watch Commander if any changes to the entry are required. The Detective Bureau Supervisor shall ensure necessary modifications are made to the SVS entry, including when a suspect associated with the vehicle has been taken into custody. The Detective Bureau Supervisor shall notify the Records Bureau or Dispatch in the event the vehicle has been located and needs to be removed from the system.

Watch Commander Responsibility:

The Watch Commander shall post a copy of a CHP 180 form on a felony vehicle or plate on the board in the Watch Commander's Office. The Watch Commander shall ensure modifications to the SVS entry are made, or the entry is removed from the system when necessary.

502.3 TOWING SERVICES

The City of Montclair 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.

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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.

502.5.1 INCORRECT LICENSE PLATES ON VEHICLE

When a vehicle is stored or impounded and the license plate(s) on the vehicle do not belong to that vehicle, the license plate(s) shall be removed from the vehicle and booked as found property. The information regarding the removal of the license plates shall be documented in the narrative portion of the CHP 180 form, including the number of license plates removed and whether they are front or rear plates. Records Bureau personnel shall complete the applicable license plate CLETS entry at the time of the vehicle storage/impound CLETS entry. Dispatch personnel will be responsible for the CLETS entry in the absence of Records Bureau personnel.

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.
 - 3. Any other circumstance as set forth in Vehicle Code § 14602.6.

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4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.
 - (d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

502.7 TOWING FOR EXPIRED REGISTRATION

Prior to a member removing a vehicle that is found to have expired registration for more than six months, the member shall verify that no current registration exists with the Department of Motor Vehicles (DMV). If current registration exists with the DMV, the vehicle shall not be removed (Vehicle Code § 22651(o)(1)(A)).

Vehicle Impound Hearings

503.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

503.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Montclair 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 Watch Commander will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Department.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code § 14602.6(b); Vehicle Code § 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

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where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this department's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
 - 1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Department's expense (Vehicle Code § 22852(e)).
- (c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Lieutenant. The hearing officer will recommend to the appropriate 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 Montclair 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 Records Supervisor 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 Watch Commander should ensure the utilization of 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.

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- (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 CHOICE OF TESTS

Officers shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

A person arrested for DUI has the choice of whether the test is of the person's blood or breath, and the officer shall advise the person that the person has that choice. If the person arrested either is incapable, or states that the person is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

504.5.2 BREATH SAMPLES

The Support Services 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 Watch Commander.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an

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alcoholic beverage and any drug. Evidence of the officer's belief shall be included in the officer's report (Vehicle Code § 23612(a)(2)(C)).

504.5.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Officers should inform an arrestee that if the arrestee chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored, and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because the arrestee has a bleeding disorder or has taken medication that inhibits coagulation, the arrestee shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

504.5.4 URINE SAMPLES

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain the arrestee's dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The sample shall be packaged, marked, handled, stored, and transported as required by the testing facility.

504.5.5 STATUTORY NOTIFICATIONS

Officers requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

504.5.6 PRELIMINARY ALCOHOL SCREENING

Officers may use a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The officer shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, the person shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy the person's obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

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504.5.7 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21

If an officer lawfully detains a person under 21 years of age who is driving a motor vehicle and the officer has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the officer shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the officer may request the person to submit to chemical testing of the person's blood, breath, or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

504.6 REFUSALS

When an arrestee refuses to provide a viable chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).
- (b) Audio- and/or video-record the admonishment when it is practicable.
- (c) Document the refusal in the appropriate report.

504.6.1 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (Penal Code § 1524).
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

504.6.2 FORCED BLOOD SAMPLE

If a person 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.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the person to submit to such a sample without physical resistance. This dialogue should be recorded on audio and/or video if practicable.

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- (d) Ensure that the withdrawal is taken in a medically approved manner.
- (e) Ensure the forced withdrawal is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied is reasonable under the circumstances:
 - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
 - 2. In misdemeanor cases, if the suspect becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
 - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood being withdrawn may be permitted.
- (g) Ensure the use of force and methods used to accomplish the blood sample draw are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

504.6.3 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

504.6.4 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that the person will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of the person's duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.
 - 1. This dialogue should be recorded on audio and/or video if practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:

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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 RECORDS BUREAU RESPONSIBILITIES

The Records Supervisor will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

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 Support Services Lieutenant 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 Support Services Lieutenant should confer with the prosecuting attorney's office and update training topics as needed.

504.10 ARREST AND INVESTIGATION

504.10.1 WARRANTLESS ARREST

In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

- (a) The person is involved in a traffic crash.
- (b) The person is observed in or about a vehicle that is obstructing the roadway.

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- (c) The person will not be apprehended unless immediately arrested.
- (d) The person may cause injury to themselves or damage property unless immediately arrested.
- (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

504.10.2 OFFICER RESPONSIBILITIES

The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

- (a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).
- (b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
- (c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

Traffic Citations

505.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

505.2 RESPONSIBILITIES

The Records Supervisor shall be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Bureau shall be responsible for the supply and accounting of all traffic citations issued to employees of this department.

505.2.1 CITATION COURT DATES

Court appearance dates, times, and locations to be used for adult and juvenile citations are listed on quick-reference sheets available in debriefing. These sheets are updated by the Records Supervisor to coincide with current San Bernardino County Superior Court directives.

Members are responsible for obtaining the court dates at the beginning of their shift.

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 Watch Commander. Upon a review of the circumstances involving the issuance of the traffic citation, the Watch Commander may request the Captain to consider 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 Field Services 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 turned in 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 documentation requesting a specific correction to the Records Bureau.

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The Records Bureau shall prepare documentation of correction to the court having jurisdiction and to the recipient of the citation.

505.5.1 CORRECTION OF PARKING CITATIONS

When a parking citation is issued and in need of correction, the member issuing the citation shall complete a parking citation correction form and turn it in to the Citation Clerk with the citation. Once a citation has been issued, no correction may be made on the original citation or the copies.

505.6 DISPOSITION OF TRAFFIC CITATIONS

The court and file copies of all traffic citations issued by members of this department shall be filed with the Records Bureau.

Upon separation from employment with this department, all employees issued traffic citation books shall return any unused citations to the Records Bureau.

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 Technical Services Supervisor who will review written/documentary data. Requests for administrative reviews are available at the front desk of the Montclair Police Department. 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)).

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- (b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).
- (c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40200 - 40225. The person requesting the hearing may request one continuance, not to exceed 21 calendar days (Vehicle Code § 40215).
- (d) Registered owners of vehicles may transfer responsibility for the violation via timely affidavit of non-liability when the vehicle has been transferred, rented or under certain other circumstances (Vehicle Code § 40209; Vehicle Code § 40210).

505.7.3 COSTS

- (a) There is no cost for an administrative review.
- (b) Appellants must deposit the full amount due for the citation before receiving an administrative hearing, unless the person is indigent, as defined in Vehicle Code § 40220, and provides satisfactory proof of inability to pay (Vehicle Code § 40215).
- (c) An appeal through Superior Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if appellant's liability is overruled by the Superior Court.

505.7.4 REQUEST FOR DISMISSAL OF PARKING CITATION BY ISSUING OFFICER

When a member determines that a parking citation has been issued in error, the issuing member may request dismissal through the administrative review process. To initiate the administrative review process, the issuing officer shall submit to the administrative review officer a memorandum outlining the circumstances and justification for the dismissal. The memorandum and citation shall then be submitted to the Records Supervisor for processing through the administrative review process.

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.

505.8.1 DETERMINING IF A VIOLATOR IS ELIGIBLE FOR COUNTY SEAT

If the violator who receives the citation resides in or their principle place of employment is located closer to the county seat of the county where the citation was issued (San Bernardino) than to the court in that county where the citation was issued (Rancho Cucamonga), he/she may demand that his/her case be heard at the county seat, rather than at the court of jurisdiction where the citation was issued (Vehicle Code §40502(b)).

Examples:

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- (a) Person cited in Montclair lives in Chino and works in Ontario. County seat is requested, but would be denied, as the person lives and works closer to the Rancho Cucamonga Court than to the San Bernardino Court.
- (b) Person cited in Montclair, lives in Chino, and works in Redlands. County seat is requested and would be granted because although the person lives closer to Rancho Cucamonga Court, he/she works closer to the San Bernardino Court.

505.9 CITATION SIGN-OFF

Citations for correctable traffic violations (Vehicle Code § 40303.5) may be signed off by the following personnel upon verification the violation has been corrected:

- (a) Equipment violations may be signed off by police officers, reserve police officers, and cadets.
- (b) Driver license violations and vehicle registration violations may be signed off by police officers, reserve police officers, cadets, and Records Bureau personnel.

Citations issued by the California Highway Patrol (CHP) for certain violations may only be signed off by a CHP officer (Refer to California Highway Patrol Citations section below)..

505.9.1 PROCEDURE

Signing off a citation requires the following:

- (a) Signature of person signing off the citation
- (b) Date signed off
- (c) "Montclair P.D." stamp is to be stamped in the sign-off section
- (d) Payment of sign-off fee to the Police Department, if applicable (citations issued to Montclair residents by any law enforcement agency and citations issued by Montclair Police Department do not require payment of a sign-off fee). An administrative fee is to be paid to the court at the time the proof of correction is submitted to the court.

Citations are not to be signed off in the field except in extenuating circumstances or with the approval of a supervisor (e.g., the vehicle is non-operational and cannot be driven to the station). When a citation is signed off in the field, the violator should be instructed to bring the citation to the Police Department so that it can be stamped, as the sign-off is not valid without the stamp.

505.9.2 CALIFORNIA HIGHWAY PATROL (CHP) CITATIONS

Most citations for equipment violations issued by the CHP may be signed off by agencies other than the CHP.

Exceptions - Do not sign off the following:

- (a) If the CHP writes on the citation "To be signed off by CHP only"
- (b) Citations for commercial brakes or air loss should be signed off only by a commercial trained officer.

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505.9.3 FEES

The fee to sign off a violation shall be in adherence to the City of Montclair Master Fee Schedule.

505.9.4 SATISFACTORY PROOF OF CORRECTION

Vehicle Code § 40150 defines proof of correction.

A citation sign-off for violation of Vehicle Code § 4000(a) (expired registration) requires proof of current registration. This may be in the form of a DMV registration document reflecting the current status. Payment of fees with other requirements pending (such as smog check or signature of seller needed) are not considered "current registration." Registration is not current until all transactions are complete and DMV records show the registration as current.

Citation sign-off for violation of Vehicle Code § 5200 (no license plate) or Vehicle Code § 5204 (no registration tabs on vehicle) require visual verification by an authorized member of the Police Department that two license plates or the registration tabs are on the vehicle in order for the citation to be signed off as corrected.

Citation sign-off for other equipment violations requires visual verification by an authorized member of the Police Department that the violation has been corrected in order for the citation to be signed off.

505.9.5 EXPIRED REGISTRATION CITATIONS

In order to allow for the U.S. mail and DMV processing delays, members issuing Vehicle Code § 4000(a) citations should not issue a citation until 30 days after the date the vehicle registration expires.

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.

VIN Verifications

507.1 PURPOSE AND SCOPE

Members of the Montclair Police Department are not authorized to perform Vehicle Identification Number (VIN) verifications. Persons requesting a VIN verification should be referred to the Department of Motor Vehicles (DMV) or local California Highway Patrol (CHP) office.

72-Hour Parking Violations

508.1 PURPOSE AND SCOPE

This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Montclair City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code §§ 22652.6 and 22669.

508.2 MARKING VEHICLES

Vehicles suspected of being in violation of the City of Montclair 72-Hour Parking Ordinance shall be marked and noted on the Montclair Police Department Abandoned Vehicle Log located in the Watch Commander's office.

Members conducting parking enforcements shall not use straight pins, pennies, paint, or chalk to mark the tires. Any deviation in markings shall be noted on the Abandoned Vehicle Log. The investigating member should make a good faith effort to notify the owner of any vehicle subject to towing prior to having the vehicle removed. This may be accomplished by personal contact or by leaving notice attached to the vehicle at least 24 hours prior to removal.

Parking citations for the 72-hour parking ordinance shall not be issued when the vehicle is stored for the 72-hour parking violation.

508.2.1 VEHICLE STORAGE

Any vehicle in violation shall be stored by the authorized towing service and a vehicle storage report shall be completed by the officer authorizing the storage of the vehicle.

The storage report form shall be submitted to the Records Bureau immediately following the storage of the vehicle. It shall be the responsibility of the Records Bureau to immediately notify the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento (Vehicle Code § 22851.3(b)). Notification may also be made to the National Law Enforcement Telecommunications System (NLETS)(Vehicle Code § 22854.5).

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Records Bureau to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice to all such individuals shall be sent first-class or certified mail pursuant to Vehicle Code § 22851.3(d).

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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 Montclair 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 DETECTIVE BUREAU CALL-OUT PROCEDURE

- (a) On-Duty - Detective personnel will respond to the scene of major incidents and assume investigative responsibilities when requested by the Captain, Lieutenant, Detective Bureau Supervisor, or the Watch Commander.
- (b) Off-Duty - Should it become apparent at a crime scene that Detective Bureau assistance is warranted or appropriate, the on-duty Watch Commander will notify the listed personnel in the following order:
 - 1. The on-call Duty Detective
 - 2. The Detective Bureau Sergeant, or in his/her absence, the Support Services Lieutenant
 - 3. The on-call Duty Command Officer

Once the above notifications have been made, a decision will be made by the Detective Bureau Sergeant or Support Services Lieutenant and the Duty Command Officer as to the level of supervision that will be assigned to the overall criminal investigation and crime scene.

No direct call-out of Detective Bureau personnel by officers on the scene should occur without specific authorization by the on-duty Watch Commander.

600.3.1 WEEKEND DUTY

Detective Bureau personnel are assigned weekend duty on a rotational basis.

Weekend duty commences on Friday at 1730 hours and concludes the following Monday at 0700 hours. It will also cover any holiday which immediately precedes or immediately follows the weekend. Any holiday that falls mid-week will be covered by the detective who has the following weekend duty.

The duty detective must remain available to respond with an on-scene time of no longer than 90 minutes from the time of notification.

On-call status requires that the duty detective be prepared and capable of reporting for duty when requested.

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All or part of weekend duty may be traded among the members of the Detective Bureau with the prior approval of the Detective Bureau supervisor, or in his/her absence, Duty Command.

600.3.2 IDENTIFICATION AND ANALYSIS

Identification work that can be performed by patrol personnel should not be delayed. Identification work that is delayed will be noted on the Patrol Sergeant's Shift Report.

Evidence to be submitted for analysis will be properly packaged according to the Property/Evidence Packaging and Procedures Manual.

600.4 INITIAL INVESTIGATION

600.4.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
 - 1. An initial statement from any witnesses or complainants.
 - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the officer shall:
 - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
 - 2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
 - 3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
 - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
 - 5. Collect any evidence.
 - 6. Take any appropriate law enforcement action.
 - 7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

600.4.2 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

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600.5 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.

600.5.1 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.

600.5.2 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.

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- (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).

600.6 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
 - 1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
 - 2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted, or requested, and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted, or requested.
- (f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse, Sexual Assault Investigations, and Senior and Disability Victimization policies may also require an arrest or submittal of a case to a prosecutor.

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600.7 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence, as referenced in the Computers and Digital Evidence Policy. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

600.8 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights, and civil liberties. Information gathered via the internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using the member's own equipment, the member should note the dates, times, and locations of the information and report the discovery to the member's supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and the Criminal Organizations policies).

600.8.1 ACCESS RESTRICTIONS

Information that can be accessed from any department computer, without the need of an account, password, email address, alias, or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any internet source should be evaluated for its validity, authenticity, accuracy, and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

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600.9 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 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.

600.10 USE OF CERTAIN DNA SAMPLES

Known samples of DNA collected from a victim of a crime or alleged crime, and known reference samples of DNA from any individual that were voluntarily provided for the purpose of exclusion are to be used only for the purpose directly related to the incident being investigated and in compliance with the procedures identified in Penal Code § 679.12.

600.11 ANTI-REPRODUCTIVE RIGHTS CRIMES

A member should take a report any time a person living within the jurisdiction of the Montclair Police Department reports that the person has been a victim of an anti-reproductive rights crime as defined by Penal Code § 13776 and Penal Code § 423.3. This includes:

- (a) Taking a report, even if the location of the crime is outside the jurisdiction of this department or has not been determined (e.g., online harassment).
- (b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Members should encourage the person to review the material and should assist with any questions.

A report should also be taken if a person living outside department jurisdiction reports an anti-reproductive rights crime that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in the [city/county] to facilitate the crime).

A member investigating an anti-reproductive rights crime should ensure that the case is referred to the appropriate agency if it is determined that this department should not be the investigating agency. The victim should be advised that the case is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for department use and are specific to this type of investigation.

The Detective Bureau supervisor should provide the Records Supervisor with enough information regarding the number of calls for assistance and number of arrests to meet the reporting requirements to the California Department of Justice as required by Penal Code § 13777. See the Records Bureau Policy for additional guidance.

600.12 STATE REQUIREMENTS FOR FIREARM INVESTIGATIONS

600.12.1 CALIFORNIA DOJ NOTICE OF LOCATION OF REPORTED LOST OR STOLEN FIREARM

When notification is received from the California Department of Justice (DOJ) that a firearm purchase matches an entry made into the Automated Firearms System by the Department as lost or stolen, the Detective Bureau supervisor shall assign an officer to retrieve the firearm and book the firearm into evidence in accordance with the Property and Evidence Policy. Recovery of the

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firearm shall be reported pursuant to Penal Code § 11108.2, Penal Code §11108.3, and Penal Code § 11108.5. If appropriate, arrangements may be made to have another state or local law enforcement agency retrieve the firearm on behalf of the Department (Penal Code § 28220).

600.12.2 RELINQUISHMENT OF FIREARMS VERIFICATION

The Detective Bureau supervisor shall designate a member to have access to the Armed Prohibited Persons System (APPS) to receive information regarding individuals in the jurisdiction of the Department who have become a prohibited possessor of a firearm registered in their name and have not provided proof of relinquishment. The member shall document steps taken to verify that the individual is no longer in possession of firearms and provide the information to the Records Bureau for preparation of a quarterly report to the California DOJ (Penal Code § 29813) (see the Records Bureau Policy for additional guidance).

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 Senior and Disability Victimization 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 Montclair 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.

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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 Dispatch, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

601.5.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

- (a) Prior to the commencement of the initial interview, advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, about any other rights of a sexual assault victim pursuant to the sexual assault victim card described in Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).
- (b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).
 1. The officer shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).
 2. A support person may be excluded from the examination by the officer or the medical provider if the support person's presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

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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 (Penal Code § 680).

601.6.1 COLLECTION AND TESTING REQUIREMENTS

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a SAFE kit submitted to a private vendor laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to

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update the status every 120 days thereafter until the testing is complete, the statute of limitations has run, or the SAFE kit is exempt from the update requirement (Penal Code § 680.3).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

601.6.2 COLLECTION OF DNA REFERENCE SAMPLES

Reference samples of DNA collected directly from a victim of sexual assault, and reference samples of DNA collected from any individual that were voluntarily provided for the purpose of exclusion, shall be protected as provided in Penal Code § 679.12 (Penal Code § 680).

601.6.3 DNA TEST RESULTS

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
 - 1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 - 2. Absent a written request, no member of this department is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.
- (b) Sexual assault victims shall further have the following rights (Penal Code § 680):
 - 1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.
 - 2. To be informed if there is a confirmed match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
 - 3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank or the federal Department of Justice or Federal Bureau of Investigation CODIS database of case evidence.

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4. To access the DOJ SAFE-T database portal consistent with Penal Code § 680.3(e) for information involving their own forensic kit and the status of the kit.
- (c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).
 1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

601.6.4 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

The Property and Evidence 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).

601.7 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.

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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.

Asset Forfeiture

602.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

602.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Chief of Police to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Montclair Police Department seizes property for forfeiture or when the Montclair Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

Forfeiture - The process by which legal ownership of an asset is transferred to a government or other authority.

Forfeiture reviewer - The department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Department and the assigned attorney.

Property subject to forfeiture - The following may be subject to forfeiture:

- (a) Property related to a narcotics offense, which includes (Heath and Safety Code § 11470; Health and Safety Code § 11470.1):
 - 1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
 - 2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
 - 3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
 - 4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
 - 5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.

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- (b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):
 - 1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
 - 2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

Seizure - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

602.2 POLICY

The Montclair Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Montclair Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

602.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

602.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.
- (b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):
 - 1. The property subject to forfeiture is legally seized incident to an arrest.
 - 2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing officer can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

Officers aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

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Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

602.3.2 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.
- (b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).
- (c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470).
- (d) Vehicles, boats or airplanes owned by an "innocent owner," such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).
- (e) Any property when the associated activity involves the possession of marijuana or related paraphernalia that is permissible under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1).

602.3.3 SEIZED VEHICLES

Vehicles seized subject to forfeiture will be taken to a designated secure storage facility. A seized vehicle should not be impounded. The officer seizing the vehicle shall notify the detective supervisor of the seizure of the vehicle and circumstances of the seizure as soon as possible.

If the vehicle cannot be driven, a tow truck will be used to tow the vehicle to the storage facility.

Personal property located in a seized vehicle shall be removed and booked into Property as either evidence or for safekeeping.

602.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

- (a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.

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- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

602.5 MAINTAINING SEIZED PROPERTY

The Detective Bureau Supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

602.6 FORFEITURE REVIEWER

The Chief of Police will appoint an officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.
- (b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.

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- (d) Ensuring that property seized under state law is not referred or otherwise transferred to a federal agency seeking the property for federal forfeiture as prohibited by Health and Safety Code § 11471.2.
- (e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:
 - 1. Names and contact information for all relevant persons and law enforcement officers involved.
 - 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
 - 3. A space for the signature of the person from whom cash or property is being seized.
 - 4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
- (g) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or Department Directives. The training should cover this policy and address any relevant statutory changes and court decisions.
- (h) Reviewing each asset forfeiture case to ensure that:
 - 1. Written documentation of the seizure and the items seized is in the case file.
 - 2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
 - 3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Health and Safety Code § 11488.4).
 - 4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
 - 5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
 - 6. Any cash received is deposited with the fiscal agent.

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7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
 8. Current minimum forfeiture thresholds are communicated appropriately to officers.
 9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
 - (j) Ensuring that the process of selling or adding forfeited property to the department's regular inventory is in accordance with all applicable laws and consistent with the department's use and disposition of similar property.
 - (k) Keeping a manual that details the statutory grounds for forfeitures and department procedures related to asset forfeiture, including procedures for prompt notice to interest holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Heath and Safety Code § 11469).
 - (l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Heath and Safety Code §11471).
 - (m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds \$5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives (Health and Safety Code § 11495).

602.7 DISPOSITION OF FORFEITED PROPERTY

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Heath and Safety Code § 11469).

The Department may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

602.7.1 RECEIVING EQUITABLE SHARES

When participating in a joint investigation with a federal agency, the Montclair Police Department shall not receive an equitable share from the federal agency of all or a portion of the forfeiture proceeds absent either a required conviction under Health and Safety Code § 11471.2 or the

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flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of \$40,000 or more.

602.8 CLAIM INVESTIGATIONS

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and that ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

Informants

603.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

603.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the Montclair Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Montclair Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

603.2 POLICY

The Montclair Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

603.3 USE OF INFORMANTS

603.3.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

603.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

Except for the enforcement of laws related to the commercial sale of alcohol, marijuana or tobacco products, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any
- (c) The court in which the juvenile's case is being handled, if applicable (Penal Code § 701.5)
- (d) The Chief of Police or the authorized designee

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603.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

603.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Lieutenant, Detective Bureau supervisor or their authorized designees.
 - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as police officers, employees or agents of the Montclair Police Department, and that they shall not represent themselves as such.
- (d) The relationship between department members and informants shall always be ethical and professional.
 - (a) Members shall not become intimately involved with an informant.
 - (b) Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Detective Bureau supervisor.
 - (c) Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Detective Bureau supervisor.
 - 1. Officers may meet informants alone in an occupied public place, such as a restaurant.
- (f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- (g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

603.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member.

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The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.
- (b) The informant behaves in a way that may endanger the safety of an officer.
- (c) The informant reveals to suspects the identity of an officer or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this department to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

603.5 INFORMANT FILES

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Detective Bureau. The Detective Bureau supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Captain, Lieutenant, Detective Bureau supervisor or their authorized designees.

The Investigation Lieutenant should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Detective Bureau supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

603.5.1 FILE SYSTEM PROCEDURE

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

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- (a) Name and aliases
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned and registration information
- (h) Places frequented
- (i) Briefs of information provided by the informant and his/her subsequent reliability
 - 1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (j) Name of the officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

603.6 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The Detective Bureau supervisor will discuss the above factors with the Field Services Lieutenant and recommend the type and level of payment subject to approval by the Chief of Police.

603.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

- (a) Payments of \$500 and under may be paid in cash from the designated buy/expense fund.
 - (a) The Detective Bureau supervisor shall sign the voucher for cash payouts from the buy/expense fund.

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- (b) Payments exceeding \$500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.
 - 1. The check shall list the case numbers related to and supporting the payment.
 - 2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
 - 3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
 - 4. Authorization signatures from the Chief of Police and the City Manager are required for disbursement of the funds.
- (c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.
 - 1. The cash transfer form shall include the following:
 - (a) Date
 - (b) Payment amount
 - (c) Montclair Police Department case number
 - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
 - 2. The cash transfer form shall be signed by the informant.
 - 3. The cash transfer form will be kept in the informant's file.

603.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.

603.6.3 AUDIT OF PAYMENTS

The Detective Bureau supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

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 Montclair 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

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.

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In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

The eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures. When it is not feasible to make a recording with both audio and visual representations, an audio recording should be made (Penal Code § 859.7).

604.5 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.

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- (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.

604.6 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.

604.6.1 DOCUMENTATION RELATED TO RECORDINGS

The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

604.6.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION

If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

604.7 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.

604.7.1 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

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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 Montclair Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

605.2 POLICY

The Montclair 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 Montclair 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:

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- (a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the officer's personnel file.
- (b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in-camera review by the court.
- (c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.
- (d) The Custodian of Records shall accompany all relevant files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
 - 1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

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.

Warrant Service

606.1 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.

606.2 POLICY

It is the policy of the Montclair 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.

606.3 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.

606.4 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).

606.5 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

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606.6 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 or no-knock 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).

606.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.
- (c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.
- (d) Reasonable efforts are made during the search to maintain or restore the condition of the location.

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- (e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- (f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- (g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant is left at the location.
- (i) The condition of the property is documented with video recording or photographs after the search.

606.8 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.

606.9 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.

606.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including

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the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Montclair Police Department are utilized appropriately. Any concerns regarding the requested use of Montclair 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 Montclair 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 Montclair Police Department when assisting outside agencies or serving a warrant outside Montclair Police Department jurisdiction.

606.11 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

606.12 TRAINING

The Support Services Lieutenant should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

606.13 NO-KNOCK ENTRIES

No-knock entries are only authorized if a no-knock warrant has been obtained or if exigent circumstances arise at the scene such that knocking and announcing the officer's presence would create an imminent threat of physical violence to the officer or another person.

606.14 DOCUMENTATION

Documentation related to the service of a warrant shall be maintained in accordance with the established records retention schedule.

Operations Planning and Deconfliction

607.1 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.

607.1.1 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.

607.2 POLICY

It is the policy of the Montclair 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.

607.3 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.

607.4 RISK ASSESSMENT

607.4.1 RISK ASSESSMENT FORM PREPARATION

Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

The officer should gather available information that includes, but is not limited to:

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- (a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.
- (b) Maps of the location.
- (c) Diagrams of any property and the interior of any buildings that are involved.
- (d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).
- (e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).
- (f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).
- (g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).
- (h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

607.4.2 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.

607.4.3 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:
 - (a) (SWAT)
 - (b) Additional personnel
 - (c) Outside agency assistance
 - (d) Special equipment
 - (e) Medical personnel
 - (f) Persons trained in negotiation
 - (g) Additional surveillance

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- (h) Canines
- (i) Property and Evidence or analytical personnel to assist with cataloguing seizures
- (j) Forensic specialists
- (k) 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.

607.5 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.

607.6 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

- (a) Operation goals, objectives, and strategies.
- (b) Operation location and people:
 1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
 2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces,

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- availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids
- 3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)
- 4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties, and children
- (c) Information from the risk assessment form by attaching a completed copy in the operational plan.
 - 1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.
- (d) Participants and their roles.
 - 1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
 - 2. How all participants will be identified as law enforcement.
- (e) Whether deconfliction submissions are current and all involved individuals, groups, and locations have been deconflicted to the extent reasonably practicable.
- (f) Identification of all communications channels and call-signs.
- (g) Use of force issues.
- (h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
- (i) Plans for detaining people who are not under arrest.
- (j) Contingencies for handling children, dependent adults, animals, and other people who might be at the location in accordance with the Child Abuse, Senior and Disability Victimization, Child and Dependent Adult Safety, and Animal Control policies.
- (k) Communications plan.
- (l) Responsibilities for writing, collecting, reviewing, and approving reports.

607.6.1 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.

607.7 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

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- (a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.
- (b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.
- (c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.
 - 1. Exceptions may be made by the operations director for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.
- (d) The briefing should include details of the communications plan.
 - 1. It is the responsibility of the operations director to ensure that Dispatch is notified of the time and location of the operation, and to provide a copy of the operation plan prior to officers arriving at the location.
 - 2. If the radio channel needs to be monitored by Dispatch, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.
 - 3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

607.8 SWAT PARTICIPATION

If the operations director determines that SWAT participation is appropriate, the director and the SWAT supervisor shall work together to develop a written plan. The SWAT 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 SWAT supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

607.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

607.10 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 other required, recommended, or necessary debriefing..

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607.11 TRAINING

The Support Services Lieutenant should ensure officers and specialized 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.

Forensic Genetic Genealogy

608.1 PURPOSE AND SCOPE

This policy provides guidance for the use of forensic genetic genealogy (FGG) to generate investigative leads.

608.1.1 DEFINITIONS

Definitions related to this policy include:

Combined DNA Index System (CODIS) - An FBI computer software program that operates deoxyribonucleic acid (DNA) profile databases for law enforcement use.

DNA typing laboratory - A laboratory that analyzes biological samples, including extracted DNA, in order to provide various DNA profile types. State or local crime labs are generally not equipped to provide single nucleotide polymorphism (SNP) DNA profiles; therefore, the use of private DNA typing laboratories is often necessary for FGG.

Extracted DNA - The DNA isolated from a biological sample remaining after previous DNA testing has been completed.

Forensic genetic genealogy (FGG) - The process of obtaining a SNP DNA profile from a biological sample collected during an investigation; uploading the profile to a genetic genealogy site for comparison to the consumer profiles in the site's database to identify genetic relatives; and using the identified genetic relationships, as well as traditional genealogy research, to generate investigative leads.

Genetic genealogist - A genealogist who uses DNA testing with traditional genealogical research methods to assist law enforcement or private clients in identifying biological relatives of an individual.

Genetic genealogy site - A database of DNA profiles voluntarily submitted by public consumers for the purpose of identifying genetic relatives. The availability of genetic genealogy sites for law enforcement use varies depending on their terms of service.

Short tandem repeat (STR) DNA profile - The results of DNA typing in a format that can be processed through CODIS and state DNA databases. This is the type of DNA used in conventional non-FGG law enforcement investigations.

Single nucleotide polymorphism (SNP) DNA profile - The results of DNA typing in a format that enables an unknown DNA sample to be compared to the DNA profiles maintained by a genetic genealogy site. This is the DNA type used in FGG.

608.2 POLICY

The Montclair Police Department's use of FGG will be in coordination with prosecutors, the Coroner, and other appropriate resources only in qualifying cases after reasonable conventional investigative methods have been pursued. Members will take reasonable steps to maintain the

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integrity of the FGG process and safeguard the privacy rights of individuals whose DNA profiles are analyzed.

608.3 CRITERIA FOR FGG USE

Before using FGG, the lead investigator should coordinate with the supervisor to determine whether the case meets the following requirements:

- (a) Biological evidence collected as part of the underlying investigation (or extracted DNA from the biological evidence) is available for additional testing and is reasonably believed to be attributable to:
 - 1. The perpetrator of an unsolved violent felony.
 - 2. The unidentified human remains of a suspected homicide victim.
- (b) All reasonable conventional investigative methods have been utilized and all reasonable investigative leads have been pursued (e.g., relevant case information entered in the National Missing and Unidentified Persons System (NamUs) and the Violent Criminal Apprehension Program (ViCAP) national database).
- (c) An STR DNA profile has been developed from the biological evidence collected in the case and, absent unusual circumstances, has been uploaded to CODIS and any applicable state DNA database for comparison with negative results.

608.4 COORDINATION

Once a preliminary determination has been made that a case may qualify for the use of FGG, the lead investigating member should consult with the appropriate prosecutor to address current and prospective legal issues and determine if a search warrant is required.

In the case of unidentified human remains, the lead investigator should also consult with the Coroner.

608.5 SUBMISSION OF SAMPLE

The biological evidence or extracted DNA should be submitted to a DNA typing laboratory approved by the Department in order to obtain a SNP DNA profile.

Once a SNP DNA profile has been obtained from the biological evidence or extracted DNA, the lead investigating member should arrange for it to be compared to the SNP DNA profiles contained in one or more genetic genealogy sites to identify possible genetic relatives. The lead investigator should work with a qualified genetic genealogist as needed during this process.

When submitting a SNP DNA profile for comparison, the lead investigator or the authorized designee (e.g., assigned genetic genealogist) shall notify the genetic genealogy site that the request for comparison is from a law enforcement agency and confirm that the site's terms of service permit FGG for the type of case being investigated. The use of the SNP DNA profile and any subsequent comparison shall be limited to the original underlying investigation.

If at any time during the FGG process the case no longer meets the criteria for FGG use, the lead investigator should promptly notify the DNA typing laboratory, genetic genealogy site, and/or

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genetic genealogist to cease any further analysis and to return all evidence, data, and materials to the Department.

608.6 ANALYSIS OF FGG DATA

Once results of a comparison are received from a genetic genealogy site, the information should be evaluated by a genetic genealogist, who will assist the lead investigator in identifying potential investigative leads.

The lead investigator should promptly and diligently pursue each viable lead identified through the FGG process using traditional investigative methods, as appropriate, to:

- (a) Eliminate an individual as a potential suspect in the case.
- (b) Link an individual to the case as a potential suspect.
- (c) Identify human remains.

608.7 COLLECTION OF THIRD-PARTY DNA SAMPLE

If it is determined that a third-party DNA sample (i.e., from a person not likely to be a suspect in the investigation) should be collected and analyzed for FGG, consent from the third party should be obtained prior to collection.

If there is a reasonable belief that the integrity of the investigation would be compromised by seeking consent from the third party prior to collection, the lead investigator should consult with the prosecutor regarding applicable laws and procedures in both the jurisdiction of the investigation and the jurisdiction where the collection will occur, if different.

The use of a third-party DNA sample shall be limited to the original underlying investigation.

608.8 POST-IDENTIFICATION

Members shall not rely solely on FGG identification of a potential suspect for probable cause to make an arrest or obtain an arrest warrant. Unless there is sufficient evidence independent of the FGG data to support an arrest, a potential suspect identified through FGG should not be arrested until the suspect's identity is confirmed.

Members shall not rely solely on FGG to identify human remains unless there is sufficient evidence independent of the FGG data to declare the identification or confirmation testing has been completed.

Confirmatory DNA testing should be conducted by collecting a known DNA sample from the potential suspect or, in the case of unidentified human remains, from a close biological relative. This known DNA sample should be submitted for comparison to the original unknown STR DNA profile through conventional methods (e.g., in CODIS).

The lead investigator should consult with the prosecutor to determine the appropriate method of obtaining a known DNA sample.

Once the identity of a suspect or the identity of unidentified human remains has been confirmed through conventional DNA testing, the lead investigator should:

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- (a) Consult with the prosecutor to evaluate the entire investigative file for consideration of criminal charges or further investigation.
- (b) If applicable, consult with the Coroner for an amendment to a certificate of death.

608.9 PRIVACY CONSIDERATIONS

Members should make reasonable efforts to respect and protect the privacy of non-suspect genetic relatives identified through the FGG process. The names and identifying information of any non-suspect genetic relatives should not be included in official reports, probable cause declarations, or affidavits for search warrants and should not be disclosed unless otherwise required by law or court order.

The lead investigator should formally request that the SNP DNA profile be removed from all genetic genealogy sites upon identity confirmation and should retain a copy of the request for department records. The lead investigator should request that all case-related records and data provided to, or generated by, a genetic genealogist during the FGG process be returned to the Department.

608.10 RETENTION OF DNA SAMPLES AND RELATED RECORDS

Genetic information, including any derivative profiles and genetic genealogy site user information, should be retained in accordance with the established records retention schedule. The lead investigator should coordinate with the Property Custody Technician and provide adequate notice to the appropriate prosecutor's office before destroying any profiles or data obtained from the FGG process.

See the Property and Evidence Policy for guidelines regarding biological evidence, including DNA samples.

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Chapter 7 - Equipment

Department Owned and Personal Property

700.1 PURPOSE AND SCOPE

Department members are expected to properly care for department property assigned or entrusted to them. Members may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

700.2 CARE OF DEPARTMENT PROPERTY

Members shall be responsible for the safekeeping, serviceable condition, proper care, use, and replacement of department property assigned or entrusted to them. A member's intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Members shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable department property as soon as available and following notice to a supervisor.
- (c) Department property shall only be used by those to whom it was assigned. Use shall be limited to official purposes and in the capacity for which it was designed. City property may not be borrowed or used for personal use.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event any department property becomes damaged or unserviceable, no member shall attempt to repair the property without prior approval of a supervisor.

700.2.1 USE OF CITY-OWNED PROPERTY

Unless specifically permitted by City policy or authorized by the City Manager, the use of City facilities, equipment, vehicles, supplies, on-duty personnel, or other goods or services including facilities, personnel, services, and/or equipment provided by outside vendors or agents under license to the City or provided as part of a service agreement, are restricted for use in City business, City-sponsored events, and/or events involving City-sanctioned participation. Use of City facilities, equipment, vehicles, supplies, on-duty personnel, or other goods or services including facilities, personnel, services, and/or equipment provided by outside vendors or agents under license to the City or provided as part of a service agreement may not be used for private or personal purposes except on the same basis that they are otherwise normally available to the public; i.e., as part of a user fee or rental agreement. In such instances normal rental, usage, or contract fees, if applicable, may not be waived except in accordance with City policy or with written approval of the City Manager.

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Public respect for government is weakened when City-owned facilities, equipment, vehicles, supplies, on-duty personnel, or other goods or services including facilities, personnel, services, and/or equipment provided by outside vendors or agents under license to the City or provided as part of a service agreement are used by City employees and officials for personal purposes. Using City-provided property or personnel for private use is not a fringe benefit, nor is it sanctioned as an ethical practice in compliance with our fiduciary, moral, and professional responsibilities to the public. It is also improper and unlawful for supervisors, peers, and officials to use subordinates for personal benefit.

It is understood that employees may need to attend to personal business during regular work hours; therefore, this policy is not intended to interfere with the de minimis use of computers, Internet services, or telecommunications equipment for personal use; provided the use of such equipment is not for commercial purposes, financial gain, discourteous treatment, or other unauthorized use including but not limited to accessing any adult websites, gambling websites, hate sites, or other sites deemed inappropriate for access during work hours or by use of City-provided equipment and services.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

In order to request reimbursement for damage or loss of personal property, the member shall complete a memorandum to his/her supervisor detailing the circumstances of the damage or loss and a description of the property damaged or lost and the estimated value. Whenever possible, a receipt should accompany the memorandum.

Upon review and approval of the memorandum, the supervisor shall complete a Request for Reimbursement form. The form and memorandum are to be submitted to the Chief of Police for approval and forwarding to the Finance Department.

The Department will not replace or repair luxurious or overly expensive items that are not reasonably required as a part of work. Jewelry that is damaged while performing official duties may be reimbursed by the department up to \$100. The Department will accept no responsibility for the purchase, maintenance, loss, or damage to personal electronic devices used while in the performance of assigned duties.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Any member who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below. The member's supervisor should be notified as soon as possible. If the damage is the result of an intentional act (e.g., kicking in a door during a search warrant), the damage shall be documented in the police report. If the damage is accidental (e.g., knocking over a vase), a memorandum documenting the damage shall be completed before the member goes off-duty. The memorandum shall be submitted to the member's immediate supervisor.

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700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If members from another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the Montclair member present to immediately notify his/her supervisor.

700.5 DEPARTMENT FIREARMS

Technical Services personnel shall notify the Records Supervisor upon purchase, acquisition, sale, destruction, or other disposition of firearms, including Taser and less-lethal weapons similar to standard firearms, retained for police department use.

The Records Supervisor shall ensure that those firearms are entered into the Department of Justice Automated Firearms System (AFS) data base as institutional weapons belonging to the Montclair Police Department. If the weapons are sold, destroyed, or otherwise disposed of, once notified, the Records Supervisor shall ensure that the AFS entry is updated accordingly.

700.6 PORTABLE GUN SAFE

To provide for the safe storage of an officer's department issued weapon while it is at the officer's home, the Montclair Police Department shall issue a "multi vault" portable gun safe to every regular and reserve police officer. Officers shall secure their department issued weapon in the "multi vault" or other approved locking device while it is at their home.

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

700.7 BATTERY DISPOSAL

Used batteries shall not be disposed of in the trash and shall be disposed of in the battery disposal bin located in briefing. To prevent a potential explosion of the batteries, members shall place a piece of tape over the positive and negative end of each battery prior to placing it in the battery disposal bin.

Vehicle Maintenance

701.1 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.

701.2 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.

701.2.1 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.

701.2.2 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.

701.2.3 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.

701.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

701.3.1 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:

- (a) 10 traffic cones
- (b) 2 sticks of yellow crayon or chalk
- (c) 1 roll of crime scene barricade tape
- (d) 1 first aid kit and CPR mask
- (e) 1 Bloodborne pathogen kit, including protective gloves
- (f) 1 sharps container
- (g) 1 hazardous waste disposal bag

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- (h) 1 hazardous materials emergency response handbook
- (i) 1 box of road flares
- (j) 1 box of latex gloves
- (k) 1 spit hood
- (l) 1 hobble cord

In addition to ensuring the above items are present, members shall search the passenger compartment of the patrol vehicle for any evidence, contraband, or property left behind or discarded by previous occupants.

701.3.2 UNMARKED VEHICLES

An employee driving unmarked [department/office] vehicles shall ensure that the minimum following equipment is present in the vehicle:

- (a) 1 fire extinguisher
- (b) 1 first-aid kit
- (c) 1 box of gloves
- (d) 1 box of portable LED flares
- (e) 1 Spare tire

701.4 VEHICLE REFUELING

At the end of each shift, officers shall refuel their police vehicles. Vehicles shall only be refueled at the Police Department or authorized location. 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.

701.5 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.

701.6 NON-SWORN EMPLOYEE USE

Non-sworn employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Non-sworn employees shall also prominently display the "out of service" placards or lightbar covers at all times. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

Personal Communication Devices

702.1 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 generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

702.2 POLICY

The Montclair Police Department allows members to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on- or off-duty for business-related purposes, or reasonably associated with work-related misconduct, will be subject to monitoring and inspection consistent with applicable law and this policy.

Additionally, the use of a PCD either on-duty or after duty hours for business-related purposes, or reasonably associated with work-related misconduct, 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.

702.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received, or reviewed on any PCD issued or funded by the Department and shall have no expectation of privacy in their location should the device be equipped with location-detection capabilities. This includes records of all keystrokes or web-browsing history made on the PCD. 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 PCDs or networks (see the Information Technology Use Policy for additional guidance).

Members have no expectation of privacy regarding any communications while using a personally owned PCD for department-related business or when the use reasonably implicates work-related misconduct.

702.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No member is authorized to be the sole possessor of a department-issued PCD. 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 PCD and use of a personal PCD at

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work or for work-related business constitutes specific consent for access for department purposes. Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

702.4 DEPARTMENT-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD for the member's use to facilitate on-duty performance. Department-issued or funded PCDs may not be used for personal business either on- or off-duty unless authorized by the Chief of Police or the authorized designee. Such devices and the associated telephone number, if any, 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.

Unless a member is expressly authorized by the Chief of Police or the authorized designee for off-duty use of the PCD, the PCD will be either secured in the workplace at the completion of the tour of duty or turned off when leaving the workplace.

702.5 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) or as otherwise authorized by department procedures.
 - 1. Use of a personally owned PCD for work-related business constitutes consent for the Department to access the PCD to inspect and copy the work-related data (e.g., for litigation purposes, public records retention and release obligations, internal investigations).
 - 2. Use of and data within a personally owned PCD may be discoverable in cases when there is reason to believe it is associated with work-related misconduct.
 - 3. Searches of a personally owned PCD by the Department should be limited to those matters reasonably associated with the work-related business or work-related misconduct.
- (e) The device shall not be utilized to record or disclose any department 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

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or appointment with the Department, without the express authorization of the Chief of Police or the authorized designee.

- (f) 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, and other public records created or received on a member's personally owned PCD should be transferred to the Montclair 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 supervisors, 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 their supervisor, the member may engage in department 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 recordkeeping.

702.6 USE OF PCD

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, audio or video recordings, or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means requires the express authorization of the Chief of Police or the authorized designee.

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- (f) Members will not access social networking sites for any purpose that is not official department business. This restriction does not apply to a personally owned PCD used during authorized break times.
- (g) Using PCDs to harass, threaten, coerce, or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

702.7 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
 - 1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
 - 2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

702.8 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Members who are operating department vehicles that are not authorized emergency vehicles shall not use a PCD 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.

702.9 OFFICIAL USE

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

KNOX-BOX SYSTEMS

703.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use and control of Knox®-Box Systems

703.2 KNOX® BOX SYSTEMS

The Knox®-Box Rapid Entry System allows immediate entry into buildings and properties without the necessity to force entry. Property owners store entrance keys, access cards, alarm codes and floor plans in high-security Knox®-Box key boxes mounted near building entrances. Knox®-Box key boxes purchased by property owners are keyed to master keys maintained by the Police and Fire Departments.

Knox® Master Keys are locked in a visible position in the KeySecure™ Master Key Retention Units installed in the Watch Commander units. Keys are released when an authorized pin code is entered on the keypad. The KeySecure™ unit will display a red LED light when the master key is unsecured, or a green light for a secured key.

703.3 MASTER KEYS

The Police Department has been issued two Knox®-Box Master Keys. Security of Knox® Master Keys is critical, as a lost key would require the re-keying of all Knox-Box key boxes installed in the City. Unless being used for their intended purpose, master keys shall remain secured in the KeySecure™ units installed in the Watch Commander units. Keys shall be returned as soon as practicable after use.

When a Watch Commander unit requires service at an outside vendor or vehicle service center, the Technical Services member shall notify the Support Services Lieutenant (or in his/her absence another member of Command Staff) who will remove the master key and retain it in the administration records room key locker until the vehicle is placed back in service.

703.4 DOCUMENTING USE OF KNOX® MASTER KEY

Whenever a Knox® Master Key is utilized during an incident requiring its use, it shall be documented on the call for service in the Dispatch CAD system, on the Patrol Supervisor's Shift Report, and , when applicable, in the appropriate crime/incident report.

The Watch Commander should ensure that any entry into a building or property using a Knox® Master Key is properly documented

703.5 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander shall inspect the KeySecure™ unit in his/her assigned unit at the beginning and end of each shift to ensure the Knox® Master Key is present and secure (green LED light).

If the master key is missing, the Watch Commander shall, as soon as practicable, take reasonable steps to locate the missing key. This should include contacting the previous user(s) of the Watch

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Commander unit, contacting appropriate personnel, and reviewing prior documentation of the key's use.

If the key is not located, the Watch Commander shall notify Duty Command and shall document the loss of the master key and subsequent investigation in a memorandum addressed to the Chief of Police as soon as practicable.

703.6 PIN CODE SECURITY

Each sergeant will be provided with a unique pin code to access the Knox® Master Key. Absent exigent circumstances, sergeants should not share his/her pin code with another person. If circumstances require that the pin code be provided to another person or if the pin code is otherwise compromised, the member shall, as soon as practicable, request a new pin code from the Support Services Lieutenant.

Members of Command Staff have been provided with a unique pin code which may be provided to a member when necessary. The Support Services Lieutenant shall ensure the pin code is changed in the event it is provided to another member.

703.7 GUIDELINES FOR USE

The presence or use of the Knox®-Box Rapid Entry System at a property does not reduce that property owner's right to be free from unreasonable searches and seizures. When practicable, members shall attempt to gain the consent of the property owner prior to utilizing the Knox® Master Key. Members shall comply with the "Search and Seizure" policy (Policy 322) when making warrantless entries into private residences or businesses.

Generally, warrantless entries are presumed illegal unless justified by consent or exigent circumstances. "Exigent circumstances" include an emergency requiring swift action to prevent imminent danger to life or welfare, serious damage to property, imminent escape of a suspect, or the destruction of evidence. Warrantless entries are also authorized to render emergency assistance to an injured occupant or to protect an occupant from imminent injury and when there is an objectively reasonable basis for taking actions to protect and provide aid to the citizenry.

703.8 KNOX®-BOX LOCATION LIST

The Montclair Fire Department Administrative Aide is responsible for maintaining a current list of locations with Knox®-Box systems. A copy of this list will be maintained in Dispatch and in each Watch Commander unit. Data regarding each business utilizing a Knox®-Box will be stored in the Dispatch CAD system in the "ADDINF" file.

When additional locations are added, the Fire Department Administrative Aide will distribute an updated location list and a CAD Fire PreMIS Entry Form to dispatchers and sergeants via email. The Watch Commander first receiving the updated location list should place the updated list in the Watch Commander's units. The Dispatcher first receiving the CAD Fire PreMIS Entry Form shall add the applicable Knox®-Box information to the CAD system and print a copy of the location list. The Support Services Lieutenant shall ensure the appropriate updates have been completed.

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An electronic copy of the most recent location list will be added to a file folder located on the Department "Z" drive entitled "Knox Box Location List." The Dispatch Supervisor, or in his/her absence the Administrative Supervisor, will be responsible for updating the folder.

Vehicle Use

704.1 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 City of Montclair to provide assigned take-home vehicles.

704.2 POLICY

The Montclair 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.

704.2.1 SHIFT ASSIGNED VEHICLES

Members assigned to routine scheduled field duties shall log onto the mobile data computer (MDC) when going in-service. If the vehicle is not equipped with a working MDC, the member shall notify the Watch Commander and select another vehicle with a working MDC.

Officers shall ensure the mobile video recorder (MVR) is properly working in their unit at the beginning of each shift. If it is not working, the officer shall notify the Watch Commander and select another vehicle with a working MVR.

The Watch Commander shall ensure the Patrol Sergeant's Shift Report reflects the members assigned to the shift and their assigned vehicles.

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 shift. Any previously unreported damage, mechanical problems, unauthorized contents, contraband, or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

704.2.2 UNSCHEDULED USE OF VEHICLES

Personnel utilizing a vehicle for any purpose other than their normally assigned duties shall first notify the Watch Commander of the reasons for use. The Watch Commander shall make a notation on the Patrol Sergeant's Shift Report with the member's name and unit number.

704.2.3 UNDERCOVER VEHICLES

Unmarked units, if not assigned to an individual member, shall not be used without first obtaining approval from the respective unit supervisor.

704.2.4 DETECTIVE BUREAU VEHICLES

Department members not assigned to the Detective Bureau shall sign-out on the vehicle log whenever using a Detective Bureau vehicle.

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704.2.5 AUTHORIZED PASSENGERS

Members operating department owned vehicles shall not permit persons other than City employees or persons required to be conveyed in the performance of duty or as otherwise authorized to ride as a passenger in their vehicle.

704.2.6 POLICE DEPARTMENT PARKING

City owned vehicles should be parked by backing in their assigned covered parking stalls. Members shall not park privately owned vehicles in any parking space assigned to a city owned vehicle or in other areas of the parking lot not designated as a parking space unless authorized by a supervisor. Privately owned motorcycles shall be parked in regular parking spaces. Members shall not drive or park a personally owned vehicle on City property that is not in compliance with the Vehicle Code.

704.2.7 INSPECTIONS

The interior of any vehicle that has been used to transport any person other than a member should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized items have not been left in the vehicle.

704.3 USE OF VEHICLES

704.3.1 SHIFT ASSIGNED VEHICLES

The Watch Commander shall ensure a copy of the shift assignment roster indicating member assignments and vehicle numbers is completed for each shift and retained in accordance with the established records retention schedule. If a member exchanges vehicles during the member's shift, the new vehicle number shall be documented on the roster.

704.3.2 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Watch Commander. A notation will be made on the shift 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.

704.3.3 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents, or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

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When transporting any person in custody, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

704.3.4 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running and the officer is immediately present (e.g. traffic stop, pedestrian check). Safe Idle devices should be used when it is necessary that the vehicle be left running. The Safe Idle device is not intended to be utilized during routine calls for service, meal breaks, or for maintaining inside vehicle temperature when turning the vehicle's engine off during that period would not have an adverse effect on equipment readiness. Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

704.3.5 MDC

Members assigned to vehicles equipped with a Mobile Data 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 Dispatch. Use of the MDC is governed by the Mobile Data Computer Use Policy.

704.3.6 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system. At the start of each shift, members shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that the system is not functioning properly at any time during the shift, he/she should exchange the vehicle 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 Lieutenant approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

704.3.7 KEYS

Members approved to operate marked patrol vehicles should be issued a copy of the key as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

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Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

704.3.8 AUTHORIZED PASSENGERS

Members operating department vehicles shall not permit persons other than City personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

704.3.9 ALCOHOL

On-duty members are prohibited from operating any department vehicle after having consumed alcohol unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

704.3.10 PARKING

Except when responding to an emergency or when urgent department-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.

704.3.11 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the assigned vehicle program manager.

704.3.12 NON-SWORN MEMBER USE

Non-sworn members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Non-sworn members shall prominently display the "out of service" placards or light bar covers at all times. Non-sworn members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

704.3.13 TRANSPORTATION OF PRISONERS

Generally and when circumstances permit, prisoners of the opposite sex, adult and juvenile prisoners, or prisoners who should otherwise be segregated should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating prisoners is not practicable, officers should notify their supervisor prior to placement of the prisoners in a department vehicle. Officers should be alert to inappropriate physical or verbal contact between them and take appropriate action, including reporting as necessary. If segregating prisoners in the vehicle is not practical, supervisors should explore alternate means of transportation of the prisoners to their final destination.

Whenever a prisoner is to be transported from the Temporary Holding Facility to another facility by a member of this department, the transporting officer shall be responsible for the following:

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- (a) Verify that the identity of each prisoner to be transported matches the booking paperwork.
- (b) Ensure that all pertinent documentation accompanies the prisoner, such as copies of booking forms, medical records when appropriate, an itemized list of the prisoner's property, warrant copies, etc.
- (c) Ensure that any known threat or danger the prisoner may pose, such as escape risk, suicide potential, or medical condition, is recorded on the prisoner's booking documentation and is transported with the prisoner to the next facility. The transporting officer shall ensure such threat or danger is communicated to intake personnel at the facility.

Seat belts shall be utilized during the transportation of prisoners per the Seat Belts policy.

704.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform the member's regular assignment.

704.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other department members at the discretion of the Chief of Police or the authorized designee.

704.4.2 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 Montclair City limits.
- (d) Off-street parking will be available at the member's residence.
- (e) Vehicles will be locked when not attended.
- (f) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

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704.4.3 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence, the nature of the member's duties, job description and essential functions, and employment or appointment status. Residence in the City of Montclair is a prime consideration for assignment of a take-home vehicle. Members who reside outside the City of Montclair 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.

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 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 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 Lieutenants.
 - 4. When the vehicle is being used by the Chief of Police, 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.

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- (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.

704.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Montclair 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).

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.

704.4.5 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Department. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that the assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department 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.

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- (g) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

704.5 UNMARKED VEHICLES

Vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a division supervisor. Any member operating an unmarked vehicle shall record vehicle usage on the sign-out log maintained in the division for that purpose. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall also record the use with the Watch Commander on the shift assignment roster.

704.6 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 City for any toll fees incurred in the course of official business.
- (b) Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Lieutenant within five working days explaining the circumstances.

704.7 ATTIRE AND APPEARANCE

When operating any marked 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.

Cash Handling, Security and Management

705.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure department members handle cash appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Evidence and Informants policies.

705.2 POLICY

It is the policy of the Montclair Police Department to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of department operations and ensure the public trust.

705.3 PETTY CASH FUNDS

The Chief of Police shall designate a person as the fund manager responsible for maintaining and managing the petty cash fund.

Each petty cash fund requires the creation and maintenance of an accurate and current transaction ledger and the filing of invoices, receipts, cash transfer forms and expense reports by the fund manager.

705.4 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger and any other appropriate forms. Each person participating in the transaction shall sign or otherwise validate the ledger, attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt, invoice or cash transfer form. Transactions that are not documented by a receipt, invoice or cash transfer form require an expense report.

705.5 PETTY CASH AUDITS

The fund manager shall perform an audit no less than once every six months. This audit requires that the fund manager and at least one command staff member, selected by the Chief of Police, review the transaction ledger and verify the accuracy of the accounting. The fund manager and the participating member shall sign or otherwise validate the ledger attesting to the accuracy of all documentation and fund accounting. A discrepancy in the audit requires documentation by those performing the audit and an immediate reporting of the discrepancy to the Chief of Police.

Transference of fund management to another member shall require a separate petty cash audit and involve a command staff member.

A separate audit of each petty cash fund should be completed on a random date, approximately once each year by the Chief of Police or the City.

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Cash Handling, Security and Management

705.6 ROUTINE CASH HANDLING

Those who handle cash as part of their property or supervisory duties shall discharge those duties in accordance with the Property and Evidence and Informants policies.

Members who routinely accept payment for department services shall discharge those duties in accordance with the procedures established for those tasks.

705.7 OTHER CASH HANDLING

Members of the Department who, within the course of their duties, are in possession of cash that is not their property or that is outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another member to verify their accounting, and process the cash for safekeeping or as evidence or found property, in accordance with the Property and Evidence Policy.

Cash in excess of \$1,000 requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each member involved in this process shall complete an appropriate report or record entry.

Personal Protective Equipment

706.1 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.

706.1.1 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.

706.2 POLICY

The Montclair Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

706.3 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.

706.4 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.

706.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

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The Range Lieutenant shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

706.6 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.

706.7 RESPIRATORY PROTECTION

The Administration 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.

706.7.1 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):

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- (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.

706.7.2 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.

706.7.3 GAS MASK

Full-face air-purifying respirators, commonly referred to as gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes or mists are present. Members must identify and use the correct cartridge based on the circumstances (8 CCR 5144).

A scene commander may order the use of gas masks in situations where the use of a SCBA is not necessary. These incidents may include areas where tear gas has or will be used or where a vegetation fire is burning. Gas masks shall not be used if there is a potential for an oxygen-deficient atmosphere.

Members shall ensure their gas mask filters are replaced whenever:

- (a) They smell, taste or are irritated by a contaminant.
- (b) They experience difficulty breathing due to filter loading.
- (c) The cartridges or filters become wet.
- (d) The expiration date on the cartridges or canisters has been reached.

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706.7.4 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.

706.7.5 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.

706.7.6 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.

706.8 RECORDS

The Support Services Lieutenant is responsible for maintaining records of all:

- (a) PPE training.
- (b) Initial fit testing for respiratory protection equipment.
- (c) Annual fit testing.
- (d) Respirator medical evaluation questionnaires and any subsequent physical examination results.

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1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the department records retention schedule and 8 CCR 5144.

706.9 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).

Military Equipment

707.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

707.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

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707.2 POLICY

It is the policy of the Montclair Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

707.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Montclair Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 - 1. Publicizing the details of the meeting.
 - 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

707.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

[See attachment: Military Equipment List 10-23.pdf](#)

707.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.

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- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

707.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

707.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

707.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

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Chapter 8 - Support Services

Crime Analysis

800.1 PURPOSE AND SCOPE

Crime analysis should provide useful information to aid operational personnel in meeting their tactical crime control and prevention objectives by identifying and analyzing methods of operation of individual criminals, providing crime pattern recognition, and providing analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- (a) Crime reports
- (b) Field Interview cards
- (c) Citations
- (d) Computer Aided Dispatch (CAD) data

Outside resources such as Statewide Integrated Traffic Reporting System (SWITRS), Megan's Law, Graffiti Tracker, and Parole or Probation records can be used as a tool for crime analysis.

800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for crime analysis:

- (a) Frequency by type of crime
- (b) Frequency by date and time
- (c) Geographic factors (location and Reporting District)
- (d) Victim and target descriptors
- (e) Suspect descriptors
- (f) Suspect vehicle descriptors
- (g) Modus operandi factors
- (h) Physical evidence information

800.4 CRIME ANALYSIS DISSEMINATION

The Department does not currently have a Crime Analysis unit. Members seeking crime analysis information should consult with their supervisor who will ensure qualified personnel in the department can obtain the requested data.

Dispatch

801.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of Dispatch. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

801.2 POLICY

It is the policy of the Montclair Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The Department provides two-way radio capability providing continuous communication between Dispatch and department members in the field.

801.2.1 MENTAL HEALTH FACILITY NOTIFICATION OF THREAT

The following is the protocol for handling a written or telephone notification from a mental health facility regarding a threat made by a patient against another person(s):

If the patient makes threats during an out-patient appointment and is still at the facility, enter a call for service for a Welfare and Institutions Code § 5150 evaluation.

If the patient made the threats at a facility located in Montclair, but the intended victim resides in another city, enter a call for service as a welfare check, document the details of the phone call or notification letter, advise the law enforcement agency having jurisdiction where the victim resides, and close the call after noting the other agency's information.

If the patient makes threats while at a facility located in another city but the intended victim resides in Montclair, enter a call for service as a welfare check, document the details of the phone call or notification letter, send a Montclair officer to conduct the welfare check, and close the call accordingly.

When the call for service is closed, the dispatcher shall print a copy of the incident and forward it to the Records Supervisor for five-year retention.

801.2.2 CODE-5 INFORMATION

When the Police Department or another law enforcement agency is conducting surveillance within the City, that information will be sent to the units as an MDC message.

To ensure the safety of Code Enforcement personnel who routinely respond to addresses in the City to investigate Municipal Code violations, a specific protocol for providing Code-5 information to Code Enforcement personnel shall be followed. When Code-5 information is provided by Montclair Police Department or an outside law enforcement agency or a request is made to stay out of a particular business or residential area, the information shall be forwarded to the Fire Chief, Division Chief in charge of the Code Enforcement Unit, or the on-duty Fire Captain at Station One. When forwarding the information, a range of addresses rather than a specific address is to be provided (e.g., 10300 to 10500 Ramona Avenue).

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801.2.3 CLETS TERMINAL

The CLETS terminal located in Dispatch is the primary terminal for the Department and shall be monitored for incoming CLETS messages at all times. For this reason, console one is designated as the primary dispatch console and shall be occupied at all times.

Only personnel having full-access CLETS operator status may be allowed to work alone in Dispatch.

The CLETS machine is set-up to automatically print all messages to the secondary terminal printer in the Records Bureau, however Dispatchers receiving incoming "ten-minute hit responses" and locate teletypes shall print the teletype to the Records Bureau as a secondary copy.

When it is necessary to print an incoming teletype message in Dispatch from the primary CLETS terminal (e.g., Records is not staffed and the Watch Commander is not available to retrieve the printout from the Records Bureau printer), the message can be printed directly from the primary terminal by clicking on the printer icon on the monitor. The default is set at Dispatch and should remain set at Dispatch.

Dispatch shall be responsible for handling all CLETS transactions in the absence of Records Bureau personnel.

The Dispatch Supervisor is responsible for updating the CLETS manuals with the updates provided by the Records Supervisor/Agency Terminal Coordinator.

801.2.4 SAFETY AND SECURITY OF COMMUNICATIONS CENTER

The Communications Center in the Montclair Police Department is the primary answering point (PSAP) for the City of Montclair for police, fire, and medical services. Only members who have legitimate purpose are authorized to be in the Communications Center. Non-departmental personnel are not allowed inside the Communications Center without permission from the Watch Commander or a staff member.

The fire alarm system at the Montclair Police Department is designed as a Proprietary Supervising Station Fire Alarm System in which trained, competent personnel are in constant attendance to monitor the condition of the fire alarm system, and upon receipt of a signal, take such action as required by this procedure. The fire alarm system which includes all smoke and heat detectors, as well as the fire sprinkler system, the pre-action fire sprinkler system, and the FM-200 fire extinguishing system are automatically controlled and activate with the detection of either smoke and/or heat. Dispatchers shall have the primary responsibility of monitoring the condition of these fire systems via an annunciator panel located within the Communications Center. Upon activation of any one of the automatic fire systems, the Police Dispatcher(s) shall do the following:

- (a) View the fire alarm annunciator panel and read the description of alarm condition (e.g., smoke detector, room #212).
- (b) Contact CountyDispatch Center and advise the operator of the fire alarm condition (e.g., smoke detector, room #212).

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- (c) Contact the Watch Commander or Station Commander and advise him/her of the fire alarm condition and the location of the alarm.
- (d) Broadcast a station-wide announcement of the alarm and location of activation.
- (e) Upon verification of a fire condition, a station-wide evacuations announcement should be given. Should investigation of the alarm location indicate a false alarm, a station-wide announcement should be given advising of a false alarm.
- (f) The audible alarm may only be silenced by Dispatch personnel in a false alarm condition. Only fire personnel shall reset the fire system after investigation of the possible cause of the fire alarm.

The Communications Center and computer room are equipped with an FM-200 fire suppression gas system. In the event of a fire, smoke, or excessive heat in the Communications Center or the computer room, this system will activate and attempt to extinguish the fire before the water fire sprinklers are activated. If it is determined to be a false alarm or an accidental smoke situation (e.g., burned popcorn or a computer burns up and emits smoke and the computer can be unplugged to resolve the situation) the system should be promptly deactivated by following the instructions posted next to the FM-200 system panel.

In order for the FM-200 system to work effectively, all exterior and interior doors in the Communications Center shall remain closed at all times. Members are prohibited from propping open the doors to the kitchen and Dispatch Supervisor's office.

801.3 DISPATCH SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of Dispatch, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for Dispatch.

Access to Dispatch shall be limited to Dispatch members, the Watch Commander, command staff and department members with a specific business-related purpose.

801.3.1 OFFICER NOTIFICATION OF COURT APPEARANCES

In order to help ensure that officers appear on all court appearances when telephone notifications are received from the District Attorney's office the following procedure and documentation will be followed:

- (a) If the officer is on-duty, the dispatcher will notify the officer by radio (or personally) and indicate on the Dispatch Log that notification was made.
- (b) If the officer is not on-duty, the dispatcher will attempt to notify the officer at home or on his/her cell phone. If the officer did not answer, an attempt will be made to leave a voice mail message. In either case, it should be documented on the Dispatch Log whether notice was personally given, a voice message was left, or notification was unable to be made. Conclude the call entry with, "Attention Officer_____". If unable to leave a voice mail message or if a message was left, it is still the responsibility of the dispatcher to leave a voice mail message on the officer's voice mail at the station.

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- (c) If the dispatcher is unable to reach the officer and is unable to leave a message, attempts should periodically be made throughout the shifts to reach the officer. These attempts will also be documented on the Dispatch Log as second attempt, third attempt, etc. At the end of the shift, if contact has not been made with the officer or a message left, the oncoming dispatcher(s) will be advised and will continue to attempt notification.

801.3.2 BIO-HAZARD EXPOSURE SAFETY

Information regarding contagious and hazardous medical conditions may, with a supervisor's authorization, be included in the Computer Aided Dispatch (CAD) premise file. This information may be released to emergency responders who have a possibility of coming in contact with the individual having the hazardous medical condition. No other use or release is permitted.

The procedures for broadcasting hazardous medical conditions are outlined in this section.

It is not appropriate to delay an emergency response due to this information, and laws prohibit any such delay. This information is only made available for the emergency responder to use in taking appropriate cautionary and protective measure in managing the incident. Appropriate precautions may include donning protective gloves and face masks designed to intercept particulates and mists.

801.4 ALARM CARDS

Upon advisement from the officer of an alarm call disposition of "ACL", the dispatcher shall close the call using the disposition code for "alarm card left" (ACL). The dispatcher will issue the officer an incident number. If an alarm call is closed out with a disposition other than "ACL," the call comments shall include the reason no alarm card was left.

801.5 USE OF TELEVISION AND INTERNET IN THE COMMUNICATIONS CENTER

The primary use of television and internet in the Communications Center is to keep the dispatchers and patrol supervisors up-to-date on newsworthy events. It may secondarily be used during periods of low activity for training and entertainment.

Television and internet may be utilized at any time, including accessing from a personal communication device, provided that it does not interfere with dispatcher duties and usage is in compliance with Department and City policy. Volume must be kept at a level low enough that the dispatchers are able to hear both telephone and radio traffic. Any supervisor or manager may order television/internet restrictions should they determine that it is interfering with police business.

If, in the opinion of any supervisor or manager the content of the television programming or internet material being viewed is inappropriate for the workplace, they may direct that the program or content not be viewed.

801.6 UNIFORMS

Dispatchers shall wear the department approved uniform.

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801.7 SIT-ALONGS

Due to the restriction on access to the California Law Enforcement Telecommunications System (CLETS) and the nature of the Dispatch operation with regard to confidential information, sit-alongs in Dispatch are not permitted without the approval of the Chief of Police or his/her designee. If a sit-along is approved, the assigned dispatcher shall ensure the sit-along has no access to and is not able to view any CLETS information.

801.8 RESPONSIBILITIES

801.8.1 DISPATCH SUPERVISOR

The Chief of Police shall appoint and delegate certain responsibilities to a Dispatch Supervisor. The Dispatch Supervisor is directly responsible to the Field Services Lieutenant or the authorized designee.

The responsibilities of the Dispatch Supervisor include, but are not limited to:

- (a) Overseeing the efficient and effective operation of Dispatch in coordination with other supervisors.
- (b) Scheduling and maintaining dispatcher time records.
- (c) Supervising, training and evaluating dispatchers.
- (d) Ensuring the radio and telephone recording system is operational.
 - 1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.
- (e) Processing requests for copies of Dispatch information for release.
- (f) Maintaining Dispatch database systems.
- (g) Maintaining and updating Dispatch 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 City personnel to be notified in the event of a utility service emergency.

801.8.2 ADDITIONAL PROCEDURES

The Dispatch Supervisor should establish procedures for:

- (a) Recording all telephone and radio communications and playback issues.
- (b) Storage and retention of recordings.

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- (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) Training of Dispatchers in basic CPR skills and AED operation.
- (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 Dispatch (e.g., security cameras, fences).
- (j) Handling misdirected, silent and hang-up calls.
- (k) Handling private security alarms, if applicable.
- (l) Radio interoperability issues.

801.8.3 DISPATCHERS

Dispatchers report to the Dispatch Supervisor. The responsibilities of the dispatcher include, but are not limited to:

- (a) Receiving and handling all incoming and transmitted communications, including:
 - (a) Emergency 9-1-1 lines and "Text to 911" communications
 - (b) Business telephone lines.
 - (c) Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.
 - (d) Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
 - (e) Other electronic sources of information (e.g., text messages, digital photographs, video).
- (b) Documenting the field activities of department members and support resources (e.g., fire department, EMS, allied agency law enforcement units).
- (c) Inquiry and entry of information through Dispatch, department and other law enforcement database systems (CLETS, DMV, NCIC).
- (d) Monitoring department video surveillance systems and GPS tracker devices when in use.
- (e) Maintaining the current status of members in the field, their locations and the nature of calls for service.

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- (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.

801.9 CALL HANDLING

This Department provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the dispatcher will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in Dispatch, the dispatcher should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the dispatcher is unable to identify the caller's language, the dispatcher will contact the contracted telephonic interpretation service and establish a three-party call connecting the dispatcher, the LEP individual and the interpreter.

Dispatchers should be courteous, patient and respectful when dealing with the public.

801.9.1 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.

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801.9.2 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.

801.10 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 Dispatch Supervisor shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

801.10.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Montclair Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

801.10.2 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.

801.11 DOCUMENTATION

It shall be the responsibility of Dispatch to document all relevant information on calls for service or self-initiated activity. Dispatchers shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

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- 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.

801.12 CONFIDENTIALITY

Information that becomes available through Dispatch may be confidential or sensitive in nature. All members of Dispatch shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as Department of Motor Vehicle records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

801.13 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.

802.2.1 EVIDENCE

All property of evidentiary value shall be booked as evidence when an arrest or crime report has been made.

The following exception to the evidence booking procedure is authorized. Markers, spray paint cans, cigarettes and lighters obtained by officers in the field during the course of their duties may be transported to the Montclair Police Department and placed in the designated box in the Evidence Processing Room for destruction. If related to a crime report, the evidence should be photographed prior to destruction. Markers, spray paint cans, cigarettes and lighters obtained on school grounds that are needed for subsequent disciplinary hearings may be released to school personnel. In every case, proper documentation of the disposition of the item shall be written in the police report, or in cases of infractions, on the back of the citation (e.g., Marker released to Principal Smith or marker transported to Montclair Police Department for destruction). Evidence taken under a search warrant or where felony charges are requested shall be booked into evidence using the established procedures.

802.2.2 FOUND PROPERTY

Property under this classification is property which has been found by any person and apparently has no evidentiary value. If the property is of no value to a prosecution or an investigation, it would be classified as found property (hold for owner), regardless of when and where it was found.

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802.2.3 SAFEKEEPING (PERSONAL PROPERTY)

Property booked for safekeeping is property accepted by the Department for temporary safekeeping. For example, the valuables of a person involved in an accident would fall under this classification, and the report would indicate the disposition of this property. In addition, if a civic group puts on a special function and requests this department to take care of the money collected, such funds could be booked for safekeeping after the container is sealed in the civic group representative's presence. Safekeeping is also considered to be personal property of an arrestee which is not of evidentiary value and is taken into custody either at the time of or subsequent to the arrest.

802.2.4 RECOVERED PROPERTY

Includes recovered lost or recovered stolen property.

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.

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802.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker accompanied by two copies of the form for the Records Bureau and detectives. The remaining copy will be detached and submitted with the case report.

802.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify their immediate supervisor or the Watch Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Property Custody 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 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 Property Custody Technician shall ensure the Records Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Bureau Policy).

802.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

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- (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

802.5 RECORDING OF PROPERTY

The Property Custody 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 Montclair Police Department shall be noted in the property logbook.

802.6 PROPERTY CONTROL

Each time the Property Custody 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 Property Custody Technician at least one day prior to the court day.

802.6.1 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date and time on the property control card and the request for laboratory analysis.

The Property Custody 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 Bureau for filing with the case.

802.6.2 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time and to whom released.

The Property Custody 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.

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The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

802.6.3 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.

802.6.4 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 Property Custody Technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the case. If some items of property have not been released, the property card will remain with the Property and Evidence. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Property and Evidence 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).

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802.6.5 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)).

802.6.6 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm or ammunition, the Property Custody Technician shall return the weapon or ammunition to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met, unless the firearm or ammunition is determined to be stolen, evidence in a criminal investigation, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

802.6.7 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 Montclair 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.

802.6.8 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

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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.

802.6.9 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.

802.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property Custody 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)

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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 and Evidence Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Investigation Division supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property and Evidence Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Investigation Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Investigation Division supervisor should be consulted and the sexual assault victim shall be notified at least 60

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days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

802.7.4 POLICE AUCTION

Pursuant to the Montclair Municipal Code requirements, all unclaimed property shall be held for a period of at least three months, unless returned to the owner sooner.

Periodic public auctions shall be held for the disposal of such unclaimed property and surplus City property. These auctions may be accomplished through a private vendor as sanctioned by action of the City Council. All proceeds from the sale revert to the General Fund. As authorized by Welfare and Institutions Code § 217 and Montclair Municipal Code § 7.16.040, bicycles and usable toys held for at least three months may be turned over to the Probation Department, County Welfare Department, or to any charitable or non-profit organization which is authorized under its articles of incorporation to participate in a program or activity designed to prevent juvenile delinquency and which is exempt from income taxation under federal or state law, or both, for use in any program or activity designed to prevent juvenile delinquency.

No members may profit from such auctions, nor may they act as purchasers or have someone else act in their stead at such auctions held by the Police Department. When such auctions are held through private vendors, the prohibition against purchasing shall apply only to those members where a conflict of interest may be established (e.g., Chief of Police, member responsible for selecting a vendor, and that member's supervisor).

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 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.

802.8.1 PROPERTY ROOM SUPERVISION

The Detective Bureau Sergeant is responsible for the supervision of the property room. The property room shall be locked at all times, and access into the room is restricted to the Evidence Clerk and the volunteer specifically assigned to assist the Evidence Clerk. All other personnel entering the property room shall sign in and out on the access sheet.

Records Bureau

803.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Montclair Police Department Records Bureau. The policy addresses department file access and internal requests for case reports.

803.1.1 SIT-ALONGS

Due to the restriction on access to the California Law Enforcement Telecommunications System (CLETS) and the nature of the Record Bureau operation with regard to confidential information, sit-alongs in the Records Bureau are prohibited.

803.1.2 ALARM CARDS

Alarm cards shall be turned in to the Records Bureau by the end of the shift on which they were issued. Alarm cards are to be placed in the designated mailbox slot for alarm cards located in the copy room.

The Records Bureau collects, reviews, and files the alarm cards by address. The Records Bureau monitors the number of alarm cards issued to addresses during the calendar year and notifies the City Finance Department upon the fourth and subsequent false alarm activation. Billing notices are then mailed to the address by the Finance Department. Alarm card fees are payable to the City Finance Department.

803.2 POLICY

It is the policy of the Montclair 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 Captain or the authorized designee.

The responsibilities of the Records Supervisor include but are not limited to:

- (a) Overseeing the efficient and effective operation of the Records Bureau.
- (b) Scheduling and maintaining Records Bureau time records.
- (c) Supervising, training, and evaluating Records Bureau staff.
- (d) Maintaining and updating a Records Bureau procedure manual.
- (e) Ensuring compliance with established policies and procedures.
- (f) Supervising the access, use, and release of protected information (see the Protected Information Policy).

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- (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 BUREAU

The responsibilities of the Records Bureau include but are not limited to:

- (a) Maintaining a records management system for case reports.
 - 1. The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.
- (b) Entering case report information into the records management system.
 - 1. Modification of case reports shall only be made when authorized by a supervisor.
- (c) Providing members of the Department with access to case reports when needed for investigation or court proceedings.
- (d) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics. This includes reporting statistical data to the California Department of Justice (DOJ) for:
 - 1. All officer-involved shootings and incidents involving use of force resulting in serious bodily injury (Government Code § 12525.2).
 - 2. Suspected hate crimes (Penal Code § 13023).
 - 3. Complaints of racial bias against officers (Penal Code § 13012; Penal Code § 13020).
 - 4. Civilian complaints made against officers (Penal Code § 832.5; Penal Code § 13012).
 - 5. Stop data required by Government Code § 12525.5 and 11 CCR 999.226.
 - (a) The reported information must not contain personally identifiable information of the person stopped or other information exempt from disclosure pursuant to Government Code § 12525.5 (11 CCR 999.228).
 - 6. Anti-reproductive rights crime information required by Penal Code § 13777.
- (e) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.
- (f) Identifying missing case reports and notifying the responsible member's supervisor.
- (g) Establishing a process for collecting and submitting data to appropriate federal data collection authorities (e.g., FBI National Use-of-Force Data Collection, U.S. Department of Justice's National Law Enforcement Accountability Database), as applicable, for the following types of occurrences:

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- (a) Officer suicides
- (b) Officer misconduct
- (c) Uses of force
- (d) Officer deaths or assaults
- (e) Crime incidents
- (f) Deaths in custody
- (h) Updating the Automated Firearms System to reflect any firearms relinquished to the Department and the subsequent disposition to the California DOJ pursuant to Penal Code § 34010 (Penal Code § 29810).
- (i) Entering into the Automated Firearms System information about each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, surrendered in relation to a private party firearms transaction or registration, relinquished pursuant to a court order, or under observation, within seven calendar days of the precipitating event (Penal Code § 11108.2).
- (j) Entering into the California DOJ automated property system descriptions of serialized property, or non-serialized property that has been uniquely inscribed, which has been reported stolen, lost, found, recovered, held for safekeeping, or under observation (Penal Code § 11108).
- (k) Maintaining compliance with quarterly California DOJ reporting requirements regarding the department's efforts to verify an individual listed in the Armed and Prohibited Persons System (APPS) is no longer in possession of a firearm (Penal Code § 29813).
- (l) Maintaining compliance with the state and California DOJ reporting requirements regarding the number of transfers of individuals to immigration authorities and offenses that allowed for the transfers (Government Code § 7284.6(c)(2)).
- (m) Transmitting data to the Joint Regional Information Exchange System on any suspected multi-mission extremist crimes.

803.3.3 RECORDS BUREAU PROCEDURE MANUAL

The Records Supervisor should establish procedures that address:

- (a) Identifying by name persons in reports.
- (b) Classifying reports by type of incident or crime.
- (c) Tracking reports through the approval process.
- (d) Assigning alpha-numerical records to all arrest records.
- (e) Managing a warrant and wanted persons file.

803.4 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by officers of the Montclair Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to

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destroy the related arrest records. Petitions should be forwarded to the Captain. The Captain 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 Captain should forward the petition to the Detective Bureau Supervisor and the City Attorney, if applicable, for review. After such review and, if necessary, consultation with the City Attorney, the Detective Bureau Supervisor and the Captain shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Captain 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 Captain should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

803.5 CLETS TRANSACTIONS

When staffed, the Records Bureau is responsible for all CLETS transactions. When the Records Bureau is not staffed, Dispatch shall be responsible for all CLETS transactions.

803.6 FILE ACCESS AND SECURITY

The security of files in the Records Bureau must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a police department case, including field interview (FI) cards, criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Records Bureau, accessible only by authorized members of the Records Bureau. Access to case reports or files when Records Bureau staff is not available may be obtained through the Watch Commander.

The Records Bureau will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

803.7 ORIGINAL CASE REPORTS

Generally, original case reports shall not be removed from the Records Bureau. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from the Records Supervisor. All original case reports removed from the Records Bureau shall be recorded on a designated report check-out log, which shall be the only authorized manner by which an original case report may be removed from the Records Bureau.

All original case reports to be removed from the Records Bureau shall be photocopied and the photocopy retained in the file location of the original case report until the original is returned to

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the Records Bureau. The photocopied report shall be shredded upon return of the original report to the file.

803.8 CONFIDENTIALITY

Records Bureau staff has access to information that may be confidential or sensitive in nature. Records Bureau staff shall not access, view, or distribute, or allow anyone else to access, view, or distribute any record, file, or report, whether in hard copy or electronic file format, or any other confidential, protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Records Bureau procedure manual.

803.9 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Field Services 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. The 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 members 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 Montclair 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 member taking possession of a firearm with removed or obliterated serial numbers shall book the firearm into evidence following standard procedures. The member booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

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804.2.3 OFFICER RESPONSIBILITY

The Property Custody 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

Crime 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.

804.2.5 FIREARM TRACE

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property Custody 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.

805.1.1 MEMBERS AUTHORIZED TO RELEASE RECORDS

The Records Supervisor will maintain written guidelines for the release of information by Records Bureau personnel according to the policies established in this section and applicable statutory and case law. The Records Supervisor will confer with legal counsel and update these guidelines as necessary to keep the guidelines current. Members of this department shall not make copies of or release any police report unless authorized to do so in this policy. Members authorized to make copies of or release police reports are:

- (a) Chief of Police
- (b) Captain
- (c) Lieutenant
- (d) Records Supervisor
- (e) Police Services Specialist
- (f) Sergeants

All report copy releases shall be documented on the case cover sheet or by attachment of the written request for the copy (and fax cover sheet if applicable) to the back of the case. Report copies shall be stamped with the appropriate confidential release stamps outlined in this section.

No copy of a crime report may be distributed or released until it has been approved.

805.1.2 CONFIDENTIALITY OF LAW ENFORCEMENT RECORDS

Police reports and the information they contain are confidential and are not subject to public disclosure. Members of this department are responsible for safeguarding the information contained in copies of police reports, CLETS information, law enforcement bulletins, and all other sensitive information they have access to in the course of their duties.

Members are prohibited from releasing or sharing such information they have received unless authorized to do so for a law enforcement purpose.

Members shall shred all confidential documents, including but not limited to, copies of police reports, CLETS printouts, law enforcement bulletins, and documents containing personal information of department members or members of the community (e.g., address, date of birth, social security number, driver's license number, account numbers) when no longer needed for the performance of their duties. Such information shall not be discarded in trash or recycle containers. If it doubt whether a document requires shredding, it should be shredded.

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Members shall not take confidential documents (e.g., those described above) home, other than a copy of a police report when necessary for testifying in court. In this circumstance, members are responsible for the security of the confidential information contained in the report and shall ensure the report is destroyed (shredded) at the end of the case. Members shall not retain, store, or accumulate such documents when those documents are no longer needed for an official law enforcement purpose.

805.2 POLICY

The Montclair Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 7920.000 et seq.).

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 § 7922.525; Government Code § 7922.530).
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 7922.530).
- (g) Determining how the department's website may be used to post public records in accordance with Government Code § 7922.545.
- (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 § 7922.680 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.
- (j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 7922.700) is publicly available upon request and posted in a prominent location on the Department's website (Government Code § 7922.710; Government Code § 7922.720).

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805.3.1 RELEASE OF CRIME/ARREST REPORTS TO VICTIMS

General crime and arrest reports are exempt from public disclosure (Government Code § 6254(f); Williams v. Superior Court 5 Cal 4th 337 (1993); United States Constitution; California Constitution, Article One; Craig v. Municipal Court (1979) 1009 Cal. App. 3d 69, Penal Code § 293 (a)).

Unless otherwise prohibited by statutory or case law, release of crime/arrest reports, or a portion thereof, to victims in response to a written request and payment of applicable fee is authorized as follows:

- (a) Victim of crime(s) specified in Government Code § 6254(f) and/or Government Code § 13960(c) (or victim's representative upon presentation of acceptable written authorization) may receive:
 - 1. Face page
 - 2. Property list (stolen, recovered, lost, damaged)
 - 3. Weapons heading information
 - 4. Injuries heading information
- (b) Victims of domestic violence or their representative shall be provided, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.
 - 1. Redactions shall be made, as appropriate pursuant to Government Code § 6254(f) (witnesses and confidential informants), Penal Code § 841.5 (witness or victim address not to be released to arrestee or potential defendant), juvenile arrest information (Welfare & Institutions Code § 827), and confidential victim information (Penal Code § 293 and Government Code § 6254(f)). Should there be any reason to believe that release of the report in its entirety would endanger the safety of any person or the completion of the investigation or any related investigation, the report may be withheld or redacted as necessary (Government Code Section 6254(f)).
- (c) Victims of identity theft shall be provided with a complete copy of their identity theft crime report pursuant to Penal Code § 530.6.
 - 1. Redactions shall be made, as appropriate pursuant to Government Code § 6254(f) (witnesses and confidential informants), Penal Code § 841.5 (witness or victim address not to be released to arrestee or potential defendant), juvenile arrest information (Welfare & Institutions Code § 827), and confidential victim information (Penal Code § 293 and Government Code § 6254(f)). Should there be any reason to believe that release of the report in its entirety would endanger the safety of any person or the completion of the investigation or any related investigation, the report may be withheld or redacted as necessary (Government Code § 6254(f)).

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Other parties to a report (e.g., witness, reporting party, suspect, arrestee) are not authorized to obtain a copy of the police report.

805.3.2 PHOTOGRAPHS

Crime scene photographs and booking photographs are exempt from public disclosure as part of the case file (Government Code §6254(f) and case law (Williams v. Superior Court).

Traffic collision photographs are generally subject to release to involved parties or their representatives pursuant to Vehicle Code § 20012 as part of the traffic collision report, except when the traffic collision involves a crime (e.g., DUI, hit-and-run, possible manslaughter). When the traffic collision involves a crime, the traffic collision photographs are evidence and therefore are not subject to disclosure.

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 § 7922.530).

The processing of requests for any record is subject to the following (Government Code § 7922.530; Government Code § 7922.535):

- (a) The Department 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 § 7923.655).
- (c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department 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

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Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 7922.600).

2. If the record requested is available on the department 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 § 7922.570; Government Code § 7922.580).
- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure. The written response shall also include the names, titles, or positions of each person responsible for the denial (Government Code § 7922.000; Government Code § 7922.540).

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 § 7922.200).
- (c) Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 7927.700; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
 1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.

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2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police, or as required by law.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness shall not be disclosed to any arrested person or to any person who may be a defendant in a criminal action unless it is required by law (Government Code § 7923.615; Penal Code § 841.5).
1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, a copy of any accompanying or related photographs of the victim's injuries, property damage, or any other photographs that are noted in the incident report, and a copy of 9-1-1 recordings, if any, pursuant to the requirements and time frames of Family Code § 6228.
 2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 7923.750.
- (f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 7923.605).
1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 7923.605.
- (g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.
1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the [District/CountyAttorney], the City Attorney, or the courts pursuant to Penal Code § 1054.5.
- (h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).

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- (i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure § 130).
- (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 7923.800).
- (k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.
- (l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 7927.200).
- (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 7927.205).
- (n) Records relating to the security of the department's electronic technology systems (Government Code § 7929.210).
- (o) A record of a complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(9)).
- (p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 7927.705).
- (q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

805.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

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805.7 RELEASE OF REPORTS - BACKGROUND CLEARANCES

Absent any statutory provision to the contrary, police reports shall not be released to non-criminal justice agencies, including state licensing agencies, for background clearances. Certain non-criminal justice agencies may be entitled to local summary Criminal Offender Record Information (CORI) for background clearances (Policy Manual § 812), however this does not authorize the agencies to obtain a copy of the police report relating to that information.

Copies of police reports may be released to criminal justice agencies for background clearance purposes upon presentation of a notarized background investigation waiver.

Police reports may be released to specific federal agencies and contract agencies for federal agencies for background clearance purposes as provided in United States Code § 9101 (Security Clearance and Information Act) and pursuant to federal court order.

805.8 RELEASE OF REPORTS TO CRIMINAL JUSTICE AGENCIES

A criminal justice agency is a government agency whose primary function is the arrest, prosecution, adjudication, or sentencing of criminal offenders. Unless otherwise prohibited by statutory or case law, police reports may be released to a criminal justice agency (e.g., police department, sheriff's department, CHP, parole, probation, district attorney, courts, prisons, district attorney victim/witness programs) for a criminal justice purpose. The right to know (being a criminal justice agency) and need to know (for a criminal justice purpose such as criminal investigation, prosecution, sentencing, incarceration) shall be established before a copy of a police report is released to a criminal justice agency.

A written request (usually faxed) stating the requestor's name and agency, along with the reason for the request and any related case number, is required. If there is not sufficient information to establish the requestor's right and need to know, the Police Services Specialist processing the request is responsible for requesting the necessary information prior to providing the report copy.

Members of this or any other criminal justice agency shall not be provided with access to or a copy of any police report to which they would not otherwise be entitled as a victim or in their official capacity as a member of the criminal justice agency.

805.9 RELEASE OF POLICE REPORTS TO NON-CRIMINAL JUSTICE AGENCIES

With few exceptions, government agencies that are not "criminal justice" agencies are not entitled to obtain copies of police reports. Exceptions include, but are not limited to:

- (a) State Department of Social Services (Health Safety Code § 1522(e) and Penal Code § 11167.5) - When needed for licensing of a child care facility or placement of a child.
- (b) State Board of Control or Victim Witness Program (Government Code § 13968(d)) - When needed to ascertain whether a victim qualifies for victim assistance benefits.
- (c) Department of Motor Vehicles (Vehicle Code § 20012) - Needed to add traffic collision information to a driver history record.

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- (d) Certain non-criminal justice state agencies have specific peace officer positions designated for a specific purpose as authorized in the various subsections of Penal Code § 832. These peace officers may be entitled to obtain a copy of a police report if needed for a criminal investigation purpose.

805.10 RELEASE OF JUVENILE INFORMATION

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 in situations where they are uncertain of the legal authority to do so. Members authorized to release juvenile information are:

- (a) Chief of Police
- (b) Captain
- (c) Lieutenant
- (d) Records Supervisor
- (e) Police Services Specialist
- (f) Sergeant

805.10.1 RELEASE OF JUVENILE ARREST INFORMATION

Juvenile arrest information and records are confidential and are subject to disclosure only by court order or as authorized by statutory provisions of law.

Welfare & Institutions Code sections, including but not limited to §§ 827, 828, and 830 authorize the release of juvenile arrest information and records to specific agencies under specific circumstances. Pursuant to those sections, juvenile arrest information and records may be exchanged between criminal justice agencies, law enforcement agencies, and the courts for the purpose accomplishing the objectives of the criminal justice system. Federal statutes, such as United States Code § 9101 (Security Clearance and Information Act) override state statutes and require the release of juvenile information to specific federal agencies for national security clearances.

805.10.2 JUVENILE ARREST PETITION PROCESS

Requests to obtain juvenile arrest record information, not otherwise authorized by statutory law, must be made by way of a petition to the San Bernardino County Juvenile Court. The court will provide written notification to both the petitioner and the Police Department whether the petition was granted or denied.

If the Police Department is notified that a petition has been filed, the Records Supervisor may review the petition and file an objection to the release of information prior to the court's decision.

805.10.3 RELEASE OF OTHER JUVENILE INFORMATION

The confidentiality provision of the Welfare & Institutions Code sections protecting juvenile arrest information and records do not apply to other non-arrest juvenile record information (e.g., victim,

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witness, suspect, party to traffic collision). This type of juvenile record information is subject to the same disclosure and confidentiality provisions as adult records based on applicable statutory law.

805.11 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.

805.12 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.

805.12.1 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).

805.13 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 (Civil Code § 1798.29):

- (a) Social Security number

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1. Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
 2. Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
 3. Medical information
 4. Health insurance information
 5. Information or data collected by Automated License Plate Reader (ALPR) technology
 6. Unique biometric data
 7. Genetic data
- (b) A username or email address, in combination with a password or security question and answer that permits access to an online account

805.13.1 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 Montclair 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 Montclair Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).
- (c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):

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1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
2. When the breach involves an email address that was furnished by the Montclair 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.

805.13.2 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.

805.14 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 7923.625).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 7923.625).

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The Custodian of Records should work as appropriate with the Chief of Police 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.

805.14.1 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 § 7923.625).

805.14.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 7923.625):

- (a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
- (a) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

805.14.3 REDACTION

If the Custodian of Records, in consultation with the Chief of Police or the authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 7923.625).

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If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 7923.625).

805.14.4 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 § 7923.625):

- (a) The person in the recording whose privacy is to be protected, or the person's authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 7923.625).

Protected Information

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 Montclair 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 Montclair 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 Montclair 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.

806.2.1 CLETS ACCESS

The CLETS Policies, Practices, and Procedures Manual provides the rules and regulations for CLETS access and system security. The rules and regulations established for CLETS access and system use shall be followed by members of this department. Important information for members to know includes, but is not limited to the following:

The Records Supervisor is the Agency Terminal Coordinator (ATC) responsible for ensuring compliance with CLETS/NCIC rules and regulations relating to this department's CLETS/NCIC access.

Information obtained from CLETS is on a "right to know" and "need to know" basis.

Authorized members shall not inquire into their own record or have someone inquire for them.

Periodic driver license checks may be conducted via CLETS on this department's members when driving is a requirement of the job.

Each member is required to receive CLETS/NCIC training appropriate to their level of CLETS access within six months of employment. The training levels are practitioner, less-than-full access, or full-access.

Each member is required to read and sign a CLETS statement form prior to operating or having access to the CLETS terminals, equipment or information. The form addresses the confidentiality, release, and misuse of information. The form must be signed biennially.

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Each member is required to complete and achieve a passing score on a CLETS/NCIC Telecommunications Proficiency Examination biennially.

Accessing and/or releasing information from CLETS for non-law enforcement purposes is prohibited, unless otherwise mandated and is subject to administrative action and/or criminal prosecution.

The CLETS terminals and information from the CLETS terminals must remain secure from unauthorized access

Information from CLETS may be faxed from one secure location to another secure location. Both the agency faxing the information and the agency receiving the information are responsible for its security.

All information from CLETS must be stored in a secure and confidential file.

When an agency determines information from CLETS is no longer needed, the data shall be shredded to prevent access by unauthorized persons.

Information received from CLETS must be maintained separately from non-law enforcement information.

Terminals must be away from public view with a log-on/log-off password process in place.

A unique password must be assigned to each CLETS user. User transactions and inquiries are subject to audit.

Several manuals for CLETS/NCIC policies and procedures, such as the CLETS Policies, Practices, and Procedures Manual, Criminal Justice Information System (CJIS) Manual, CLETS Operating Manual, NCIC Operating Manual, Article, Brand, and Category (ABC) Codes Manual, and Criminal History System (CHS) Manual are available in the Records Bureau and Dispatch. The Agency Terminal Coordinator (Records Supervisor) is responsible for updating the manuals in the Records Bureau and forwarding the updates to the Dispatch Supervisor who is responsible for updating the manuals located in Dispatch.

806.3 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).

806.4 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

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(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.

806.5 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Montclair 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.

806.5.1 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).

806.5.2 RELEASE OF CORI

Any release of CLETS information to a non-CLETS subscribing government agency requires the CLETS subscribing agency to sign an agreement with the non-CLETS subscribing agency to provide specific CLETS information for a specific purpose to designated personnel. This agreement must be approved by the Department of Justice. Personnel from the non-CLETS subscribing agency are subject to the same background investigation and CLETS training requirements as members of the CLETS subscribing agency prior to obtaining any CLETS information.

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806.5.3 RELEASE OF CORI TO FIELD PERSONNEL

Criminal Offender Record Information (CORI) shall not generally be transmitted by radio, cellular phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the officer or the public are at significant risk. Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect, however a routine investigation or traffic enforcement stop would not be sufficient justification.

It is acceptable for Dispatch to advise an officer over the radio that a subject has priors (e.g., "affirmative on priors"), however any details regarding the priors should be provided in person or over a telephone landline.

Nothing in this procedure is intended to prohibit broadcasting warrant information concerning wanted persons.

806.6 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 Bureau to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

806.6.1 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.

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Nothing in this policy is intended to prohibit broadcasting warrant information.

806.6.2 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).

806.7 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:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

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. Access is defined as the ability to hear or view any information provided through the CLETS. 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.

806.8.1 COMPUTER TERMINAL SECURITY

Certain City of Montclair employees have completed the required background investigation process and have been granted general access to the Police Department facility. Such positions include janitorial staff, building maintenance staff, Mayor, Emergency Operations System (EOC) Coordinator, Fire Chief, and fitness room access. This authorized building access does not entitle

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these persons to access CLETS information or other confidential law enforcement records or information, as there is no "right and need to know" the information for the performance of official law enforcement duties.

Computer terminals capable of providing access to CLETS information are located in the Records Bureau, Dispatch, Detective Bureau, Special Enforcement Team (SET) office, Watch Commander's office, and debriefing. Members shall ensure they are logged off the computer program by which they access CLETS information or any other confidential law enforcement information (e.g., Cal Photo) whenever they are not at their computer in order to prevent unauthorized access to information.

806.8.2 DESTRUCTION OF CORI

When any document providing CLETS information or any other confidential law enforcement information (e.g., Cal-Photo, law enforcement bulletins, police report copies) has served the purpose for which it was obtained, it shall be destroyed by shredding.

Members shall be responsible for destroying the CLETS information they receive.

806.8.3 CUSTODIAN OF CRIMINAL RECORDS

The Captain, unless otherwise directed by the Chief of Police, shall be the Department's official Custodian of Criminal Records. The Custodian of Criminal Records shall be responsible for the security, storage, dissemination and destruction of criminal records, and will serve as a primary contact for the California Department of Justice for any related issues. The Chief of Police may appoint other department employees to the role of Custodian of Criminal Records, who will share the same responsibilities regarding criminal records.

The Chief of Police or his/her designee will ensure that he/she makes the appropriate applications and notifications to the California Department of Justice regarding the Department's Custodian of Criminal Record appointments, per the requirements of Penal Code § 11102.2.

This subsection is not intended to interfere with any other employee acting as a custodian of records for other statutory purposes but is narrowly tailored to address issues of criminal history records.

806.9 TRAINING PROGRAM

Members authorized to access CLETS information shall be required to complete a training program prescribed by the Department of Justice.

CLETS training shall only be conducted by a member who has completed the required CLETS Trainer course.

The Agency Terminal Coordinator shall coordinate the CLETS training by authorized CLETS training personnel.

The Agency Terminal Coordinator shall maintain all CLETS training records.

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806.10 PENALTIES FOR MISUSE OF RECORDS

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.3.7(a).

Members who obtain, or attempt to obtain, information from department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.3.7(a).

Computers and Digital Evidence

807.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

807.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
 - 1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
 - 2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery.
- (e) Label each item with the case number and evidence item number.
- (f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (g) Book all computer items into Evidence. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At minimum, officers should document the following in related reports:
 - 1. Where the computer was located and whether or not it was in operation
 - 2. Who was using it at the time
 - 3. Who claimed ownership

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4. If it can be determined, how it was being used
 - (i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software, and manuals) should not be seized unless as a precursor to forfeiture.

807.2.1 BUSINESS OR NETWORKED COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a computer forensics expert for instructions or a response to the scene. It may be possible to perform an on-site inspection or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

807.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensics expert:

- (a) Copy of the police report(s) involving the computer, including a copy of the Property Receipt/Evidence Report form
- (b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation
- (c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents)
- (d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

807.2.3 COMPUTER FORENSICS WORKROOM

The computer forensics workroom shall only be utilized for the collection of evidence from computers and electronic storage media. Only members with specialized skills in computer forensics should process computer evidence. An evidence item shall only be stored in the workroom for the time necessary to process the item. The key to the computer forensics workroom is maintained in the secure portion of the Property/Evidence Division. Members requiring access to the workroom shall obtain the workroom key from the Property Custody Technician, and shall sign the key log indicating the case number or reason for accessing the workroom.

The workroom door shall remain locked and secure when not occupied. Members removing items from evidence for processing shall complete a supplemental report documenting their actions. The Detective Bureau Supervisor should conduct audits of the key log to ensure compliance with this section.

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807.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

- (a) If the media has a write-protection tab or switch, it should be activated.
- (b) Do not review, access, or open digital files prior to submission. If the information is needed for immediate investigation request the Evidence Clerk to copy the contents to an appropriate form of storage media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters, or other sources of magnetic fields.
- (d) Do not leave storage media where they would be subject to excessive heat, such as in a parked vehicle on a hot day.
- (e) Use plastic cases designed to protect the media or other protective packaging to prevent damage.

807.3.1 DOWNLOADING OF SEIZED DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

- (a) Files should not be opened or reviewed prior to downloading and storage.
- (b) When possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

807.4 SEIZING PCDS

Personal communication devices such as cell phones, PDA's, or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data, and/or images.

- (a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a computer forensics expert. Unsent messages can be lost, data can be inadvertently deleted, and incoming messages can override stored messages.
- (b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag to prevent the device from sending or receiving information from its host network.
- (c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead, all the data may be lost.

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807.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Officers handling and submitting recorded and digitally stored evidence from department issued digital cameras and audio or video recorders shall comply with these procedures to ensure the integrity and admissibility of such evidence.

Only department issued digital cameras shall be used to take digital photographs.

Only department issued audio recorders shall be used to record public contacts, interviews, and reports.

807.5.1 COLLECTION OF DIGITAL EVIDENCE

All enforcement contacts recorded on Department issued audio recorders as described in the Portable Audio/Video Recorders Policy, and all digital photographic images captured by members in the course of duty with a digital camera shall be transferred to the PUMA System. This includes evidence, field interview (FI), booking, and registrant digital images. The following requirements are to be followed when capturing and transferring digital files:

- (a) Digital images should be taken with the camera set at the highest possible resolution and quality. Photographs should be properly focused and lit.
- (b) Members shall only use department issued media cards to capture and transfer audio and digital files.
- (c) Where appropriate, a reference scale should be included.
- (d) The first image taken should include the case number (or other reference number such as booking number or FI number), name of the photographer, and date.
- (e) Members should immediately remove the media card from the camera after images are captured. The media card should be maintained in a secure location until the transfer of images to the PUMA System is complete.
- (f) Digital images should be transferred to the PUMA System as soon as practicable.
- (g) Digital images shall not be altered or deleted from the camera or media card prior to transfer to the PUMA System.
- (h) Members shall ensure that digital files transferred to the PUMA System have been deleted from the media card. The PUMA System is designed to erase digital files from the media card upon transfer to the PUMA System.
- (i) The transfer of booking and registrant digital images to the PUMA System is the responsibility of the Community Services Officer assigned to the Detective Bureau.

Once captured, crime scene/evidence digital images and audio recordings shall be preserved regardless of quality, composition, or relevance.

Only department approved procedures shall be used to transfer digital files to the PUMA System.

807.5.2 SUBMISSION OF DIGITAL MEDIA

In addition to a system utilized for the dictation and transcription of police reports, the PUMA System is designed to transfer and store digital audio and image evidence captured by members

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including public contacts, interviews, and digital photographs. Digital image files include evidence photographs, booking photographs, and field interview photographs. The PUMA System creates an audit log that documents all user activity including the accessing, uploading, exporting, and printing of digital files.

The following procedures apply to the PUMA System:

- (a) The Captain and the Records Supervisor are PUMA System administrators and are responsible for adding and deleting system users.
- (b) Digital files shall only be deleted/purged by system administrators or the Evidence Clerk subject to the current policies related to the purging of evidence and the retention and destruction of records.
- (c) The PUMA System's search function provides all users with the ability to access and view digital audio recordings and images stored on the system.
- (d) PUMA System users are assigned specified permissions by system administrators based on the user's position, responsibilities, and expected needs. The permissions include uploading files, exporting (copying) files, printing images, burning files to CD, and deleting files.
- (e) Sworn members at the rank of Sergeant and above, specified supervisory members, investigative personnel, and the Evidence Clerk may be assigned permissions that enable the printing and exporting of image files. The intended purpose of this function is to allow the sharing of images of persons photographed (booking, FI, and registrant photos) with other Department members and outside law enforcement agencies. When utilizing this function, the user accessing the image shall enter in the "Export/Print Audit Log" dialogue box:
 - 1. The associated Montclair Police Department case number for which the image is requested, or the requesting outside agency name and case number (if applicable) for which the image is requested, and
 - 2. The reason for requesting the image
- (f) Only the Evidence Clerk is authorized to release photographs of crime scenes and evidence. Requests for evidence photographs by members of this department or members of other agencies shall be directed to the Evidence Clerk.
- (g) Members shall not access, view or distribute, or allow anyone else to access, view or distribute any digital file stored in the PUMA System, except in accordance with department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law.

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807.5.3 PRESERVATION OF DIGITAL EVIDENCE

- (a) Only the Evidence Clerk is authorized to copy original digital media that is held as evidence. The original digital media shall remain unaltered.
- (b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.
- (c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding crime report.

807.5.4 TRANSFERRING AUDIO RECORDINGS TO THE PUMA SYSTEM

The following procedures shall be followed in downloading audio recordings:

- (a) Turn on the digital recorder.
- (b) Attach the USB cable to the access port located on the bottom of the Olympus digital voice recorder.
- (c) Log onto the PUMA program by double-clicking the PUMA icon on the computer desktop using the member's ID number and password.
- (d) The download screen will automatically appear. The download screen has three columns. The first column (FILES and FOLDERS) will show the download files with the officer ID#_##### for the unique file. Any file can be highlighted in the column and be reviewed by pressing the preview button at the top of the screen.
- (e) The second column consists of FIXED DEMOGRAPHICS and shows the list in a light gray color. This area cannot be altered.
- (f) The third column consists of EDITABLE DEMOGRAPHICS. This area is intended for descriptive information to be added that will facilitate the identification and location of the recording for review or transcription. The EDITABLE DEMOGRAPHICS fields are:
 - 1. **Case #:** List the Montclair Police Department eight-digit case number without any dashes or other symbols (e.g. CR12#####). This field shall be completed when any audio recording is made during an incident where a crime report number has been issued.
 - 2. **Priority R_B_G:** This is the folder color for the report - red (R), blue (B), or green (G). Type the appropriate letter for the folder color the report will be in when turned in to the Records Bureau.
 - 3. **ADMIN #:** This field is not normally used by patrol officers.
 - 4. **NOTES:** This field can be used to provide reference information about the recording to be used in identifying the recording. It is recommended that when recording an interview on a particular case number, that the word "Interview" be listed in this section. Other pertinent information may be listed in this section or it may be left blank if it does not apply or is not needed.

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5. **Subject L_F:** List the name of the suspect or person interviewed. If there are several interviews recorded under the same case number, this information will assist in identifying a particular recording.
6. **SUPP:** If a dictated report narrative is a supplemental report, select the "Yes" button. This will assist the Records Bureau in identifying the supplement needing to be transcribed. If this does not apply, leave the default button as "No."

Each digital recorder has three independent file folders in which to record and store data. Letters A, B, and C identify and separate the file folders.

- (a) The "A" folder is designated for the recording of public contacts
- (b) The "B" folder is designated for recording interviews
- (c) The "C" folder is designated for recording report dictation

It is important that recordings be made into the appropriate folder. When viewing the digital recording demographics, the folder the recording was made in will be visible and will assist in locating and identifying individual recordings. To ensure proper managing of the recorded data, it is necessary for members to create separate files for each new contact under the proper folder. Continuous recording of numerous separate events under one file shall not be done, except in those situations where it can be articulated that it would have jeopardized personal safety in order to create a new file.

After entering the information in the editable demographics fields, a PUMA Audio Recording Transmittal form shall be completed with the job number for that recording written on the form. The job number is listed in the FIXED DEMOGRAPHICS column. To complete the process, press the PROCESS RECORD button located to the right of the screen to upload the single (highlighted) file. The PUMA Audio Recording Transmittal form shall be included with the officer's report. If no original or supplemental report is completed by the officer completing the transmittal form, the form shall be submitted directly to Records for attachment to the original case report. Records personnel will distribute this form as an attachment to the case.

Completion of the above listed steps is required each time the editable demographics fields are used or when multiple dictated reports are on the Olympus digital voice recorder.

The officer can choose to upload all of the files or remaining files in the left window by pressing the PROCESS ALL button located to the right of the screen. This will upload all of the files to the PUMA system and file all of the entries by the date and time the recording was made.

807.5.5 TRANSFERRING DIGITAL IMAGES TO THE PUMA SYSTEM

The following procedures shall be followed for transferring digital images into the PUMA System:

- (a) Log on to the PUMA System by double clicking the PUMA icon on the computer desktop using the member's ID number and password.
- (b) Place media card in the media card reader attached via a USB cable. In the "browse for folder" window, locate the removable drive device (card reader).

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- (c) On the "transfer" screen, click the "create image project" button to open the image transfer window. Click "browse".
- (d) Click on the folder containing the images to transfer.
- (e) The top image windows will populate with images contained on the media card. If all images are related to the same case/incident, click the "add all" button. All images will transfer to the bottom photo windows.
- (f) If images related to multiple events are contained on the card, each image must added individually by clicking on the image, then clicking the "add" button. Continue this process until all images for the event are transferred to the bottom window.
 - 1. Ensuring that the media card only contains images for one job eliminates this procedure.
- (g) *Optional:* Comments, both long and short versions, may be added to each image file by entering information in the "image description" boxes to the right when the image is highlighted.
- (h) After selecting the images, click "done" to return to the "transfer" screen.
- (i) In the EDITABLE DEMOGRAPHICS column, enter the "case number" in eight-digit format (i.e. CR12XXXX, FI12XXXX), or for photos associated with citations, in ten-digit format (i.e. CI12XXXXXX).
- (j) Enter other optional information in the "notes" section.
- (k) Click the "process record" button to complete the transfer.

The following procedures should be followed to access and view images stored in the PUMA System:

- (a) After logging in, click on the "search" tab to open the "search" window.
- (b) Enter "search criteria". Entering an eight-digit case number only will result in a search for all files associated with the incident. Search results may be refined by adding additional search criteria.
- (c) Click "run search".
 - (a) Results will be grouped by transaction.
 - (b) A single job with the same "transaction" number may display on multiple record lines depending on user input at time of transfer.
 - (c) Clicking on one of the image icons will open the image viewer window where all photos associated with the transaction are displayed.
- (d) Once the image viewer window is open, a selected image may be viewed in greater detail by clicking on the "full" button. The image will open in full-screen view. User input will not alter the original image.

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- (e) Buttons that provide functions for transferring, exporting, and deleting will only be enabled for specified members.

The following procedures should be followed to print or export (copy) an image:

- (a) Follow instructions above to open the image in the image viewer screen.
- (b) Select the image to be exported and click the "print" or "export" button.
- (c) A dialogue box will open requiring entry of the associated "case number" and "reason". Enter the information and click "ok".
- (d) If printing, the print window will open. Select a printer and click "print".
- (e) If exporting, a window will open that allows the user to select the destination folder. Select the desired folder and click "ok".
- (f) The image will appear in the destination folder as a JPEG image that may be copied to other media or attached to an email.

Members using the export function shall delete the image from the destination folder after the image has served its intended purpose.

Animal Control

808.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and responding to calls for service that involve animals.

808.2 POLICY

It is the policy of the Montclair Police Department to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

808.3 ANIMAL CONTROL RESPONSIBILITIES

The Montclair Police Department utilizes an allied agency for Animal Control situations. Animal control services are generally the primary responsibility of the allied Animal Control agency, and include:

- (a) Animal-related matters during periods when Animal Control is available.
- (b) Ongoing or persistent animal nuisance complaints. Such complaints may be scheduled, if reasonable, for handling during periods that Animal Control is available for investigation and resolution.
- (c) Follow-up on animal-related calls, such as locating owners of injured animals.

808.4 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation to determine the appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding members generally should not attempt to capture or pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

- (a) There is a threat to public safety.
- (b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury.
- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler of an animal has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.
 - 1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.

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2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

808.5 ANIMAL CRUELTY COMPLAINTS

Laws relating to the cruelty to animals should be enforced, including but not limited to Penal Code § 597 et seq. (cruelty to animals, failure to care for animals).

- (a) An investigation should be conducted on all reports of animal cruelty.
- (b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty.

808.6 ANIMAL BITE REPORTS

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

808.7 STRAY DOGS

If a stray dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate animal care facility.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

808.8 DANGEROUS ANIMALS

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Watch Commander will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

808.9 PUBLIC NUISANCE CALLS RELATING TO ANIMALS

Members should diligently address calls related to nuisance animals (e.g., barking dogs), as such calls may involve significant quality-of-life issues.

808.10 DECEASED ANIMALS

When a member becomes aware of a deceased animal, all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

Deceased animals on public property should be removed by contacting animal control services. If a situation arises where a member must remove a deceased animal on public property, the animal should be sealed in a plastic bag, and properly disposed of by the responding member.

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Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

When handling deceased animals, members should attempt to identify and notify the owner of the final disposition of the animal.

808.11 DESTRUCTION OF ANIMALS

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed. A badly injured animal shall only be euthanized with the approval of a supervisor.

808.12 INJURED ANIMALS

When a member becomes aware of an injured domesticated animal, all reasonable attempts should be made to contact an owner or responsible handler. If an owner or responsible handler cannot be located, the animal should be taken to a veterinarian and notice shall be given to the owner pursuant to the requirements of Penal Code § 597.1.

808.12.1 VETERINARY CARE

The injured animal should be taken to a veterinarian as follows:

- (a) During normal business hours, the animal should be taken to an authorized veterinary care clinic.
- (b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic.
- (c) An exception to the above exists when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.

Each incident shall be documented and, at minimum, include the name of the reporting party and veterinary hospital and/or person to whom the animal is released.

If Animal Control is not available, the information will be forwarded for follow-up.

808.12.2 INJURED WILDLIFE

Injured wildlife should be referred to the Department of Fish and Wildlife or the Marine Mammal Center as applicable.

808.12.3 RESCUE OF ANIMALS IN VEHICLES

If an animal left unattended in a vehicle appears to be in distress, members may enter the vehicle for the purpose of rescuing the animal. Members should (Penal Code § 597.7(d)):

- (a) Make a reasonable effort to locate the owner before entering the vehicle.
- (b) Take steps to minimize damage to the vehicle.
- (c) Refrain from searching the vehicle or seizing items except as otherwise permitted by law.

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- (d) Leave notice on or in the vehicle identifying the location where the animal has been taken and the name and Department of the member involved in the rescue.
- (e) Make reasonable efforts to contact the owner or secure the vehicle before leaving the scene.
- (f) Take the animal to an animal care facility, a place of safekeeping or, if necessary, a veterinary hospital for treatment.

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Chapter 9 - Custody

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 Montclair 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 Montclair Police Department prior to being released or transported to a housing or other type of facility.

900.2 POLICY

The Montclair 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; and in compliance with the Cite and Release policy.

900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours. The Watch Commander shall know of the physical count of all inmates, if any, being held in the Temporary Holding Facility at all times.

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 Montclair 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 in temporary custody.

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- (c) Any individual who is seriously injured.
- (d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).
 - (a) If the officer taking custody of an individual believes that the individual may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030). These arrestees, if this risk is discovered prior to entry into the Temporary Holding Facility, shall not be brought into the facility.
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to themselves or others (15 CCR 1053; 15 CCR 1055).
- (h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to the individual's health or safety.
- (j) Any individual with an obvious developmental disability (15 CCR 1057).
- (k) Any individual who appears to be a danger to themselves or others due to a behavioral crisis, or who appears gravely disabled (15 CCR 1052).
- (l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).
- (m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department 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 the member's supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody has a hearing or speech impairment, accommodations shall be made to provide this ability.

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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).

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 Board of State and Community Corrections (BSCC) for general fire- and life-safety and is trained in fire- and life-safety procedures relating specifically to the facility is on-duty at all times (15 CCR 1028).

The staffing plan shall be available for biennial review by BSCC staff. The review and recommendations of the BSCC biennial review shall be forwarded to the City, as required by 15 CCR 1027.

900.3.4 DEPARTMENT ORGANIZATION AND RESPONSIBILITY

The following responsibilities for the Temporary Holding Facility operations have been established (15 California Code of Regulations § 1029):

- (a) **Facility Administrator:** The Chief of Police shall be the Facility Administrator officially charged, by law, with the administration of the Temporary Holding Facility.
- (b) **Facility Manager:** The Captain shall be the Facility Manager officially charged with the responsibility for planning, managing, administrative functions, establishing channels of communication, and conducting inspections and operations reviews, review of the facility manual and the operations of the Temporary Holding Facility. The Facility Manager will be responsible to the Facility Administrator.
- (c) **Maintenance Manager:** The Watch Commander shall report to the Facility Manager any deficiencies in the physical maintenance, cleanliness and supply of the Temporary Holding Facility.
- (d) **Facility Supervisor:** The member with 24 hour a day functional responsibility for the Temporary Holding Facility will be the Watch Commander. Any other supervisor may provide assistance as needed. The Facility Supervisor shall be responsible to the Facility Manager.
- (e) **Custodial Personnel:** Custodial personnel shall be those on-duty sergeants, officers, detectives or other designated members whose additional duties include the supervision of prisoners who are detained in the Temporary Holding Facility. Custodial personnel will be responsible to the Facility Supervisor.

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900.3.5 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

Prior to being brought in the Temporary Holding Facility, all arrestees will be medically screened as a part of the booking process utilizing the Montclair Police Department Medical Screening form. An affirmative answer to any of the questions on the Medical Screening Form requires the Watch Commander to evaluate the person's need for transportation to the West Valley Detention Center or a medical facility if appropriate. 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 brought into the Temporary Holding Facility, is cleared to be placed in a cell, is to be immediately released, or transported to county jail or other facility. No arrestee making an affirmative answer to being suicidal or making suicidal statements shall be brought into the Temporary Holding Facility.

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. Observable symptoms of a communicable disease, including tuberculosis, include but are not limited to:

- Fever
- Diarrhea
- Fatigue
- Muscle aches
- Coughing, coughing that lasts three or more weeks, coughing up blood
- Chest pain, or pain with breathing or coughing
- Unintentional weight loss
- Night sweats
- Chills
- Loss of appetite

The officer should specifically ask if the individual is contemplating suicide and evaluate the individual for obvious signs or indications of suicidal intent. No arrestee making an affirmative answer to being suicidal or making suicidal statements shall be brought into the Temporary Holding Facility. If responsibility of the arrestee is transferred to another officer, the receiving

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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. Once inside of the Temporary Holding Facility, If there is any suspicion that the arrestee became or reasonably is suicidal, the responsible officer shall immediately notify the Watch Commander of the circumstances. The Watch Commander shall immediately arrange for the arrestee to be transported to the Countyjail or the appropriate mental health facility.

It is important for the officer in charge of an arrestee to be aware that not all suicidal persons will display signs of depression. Physical symptoms of an arrestee having a suicidal crisis include, but are not limited to:

- Sadness
- Withdrawal, silence
- Loss or gain in appetite marked by noticeable weight gain or loss
- Insomnia, awakening early and not being able to return to sleep
- Mood variations
- Lethargy, slowing of physical movements; such as walking and talking

In addition, the officer responsible for an arrestee should also be cognizant of other verbal cues which may indicate suicidal intent; including but not limited to:

- The arrestee projects hopelessness or helplessness
- The arrestee speaks of getting out of jail unrealistically
- He/she sees a future in his/her life, however, it is unrealistic
- The arrestee does not appear to be effectively dealing with the present and may be preoccupied with the past
- The arrestee notifies the responsible officer he/she plans to commit suicide
- The arrestee has increasing difficulty relating to others
- The arrestee exhibits sudden changes in behavior, i.e. he/she makes an unprovoked attack on Department personnel

Upon admitting arrestees into the Temporary Holding Facility, the officer responsible for the prisoner shall be alert to circumstances placing that prisoner at suicidal risk, including but not limited to:

- Prominent persons charged with embarrassing crimes
- Persons held for alcohol or drug related charges
- All juveniles (Refer to the Temporary Custody of Juveniles policy)
- Persons with history of self-destructive acts

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- Individuals who state their intention of suicide
- Individuals who appear depressed
- Individuals who have visible scars on their wrists or neck indicating prior suicide attempts

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 CLASSIFICATION PLAN, SCREENING, AND SEGREGATION OF INMATES

Each detention cell within the Montclair Police Department Temporary Holding Facility has the capacity to house up to four (4) prisoners. Absent exigent circumstances, only one prisoner should be confined in each cell. A supervisor may authorize the detention of more than one prisoner per cell. The officer responsible for the prisoner shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems. Segregation may be used if necessary to protect the safety of the inmate or others. Administrative segregation shall consist of separate and secure housing,

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but shall not involve any other deprivation of privileges than is necessary to obtain the objective of protecting the other inmates and Department staff.

When more than one prisoner is to be confined in a cell, it is necessary to segregate prisoners in compliance with the requirements noted in Title 15 of the California Code of Regulations.

- (a) Prior to confining more than one prisoner to a cell, the booking officer shall evaluate each incoming prisoner using the Montclair Police Department Medical Screening form and the Montclair Police Department Prisoner Classification form. These forms shall be completed in their entirety in order to properly assign prisoners according to sex, age, criminal sophistication, seriousness of crime charged, physical or mental health needs, assaultive/non-assaultive behavior, restrictions, cell assignments and other criteria to ensure the safety of the prisoner and staff. An inmate's own views with respect to his or her own safety shall be given serious consideration. (15 California Code of Regulations § 1050).
- (b) During the booking procedure, the booking officer shall ask the prisoner if he/she is contemplating suicide. The officer shall evaluate the prisoner for other signs or indications that the prisoner may be suicidal. If there is any suspicion that the prisoner may be suicidal, he/she shall be transported to the county jail or appropriate mental health facility. The receiving staff shall be notified in writing (e.g., noted on the booking sheet, 5150 form, etc.) that the suspect may be suicidal.
- (c) It is the responsibility of the Watch Commander to ensure that the Prisoner Classification form has been properly completed. After the completion of the form, the Watch Commander will be required to authorize, on a case-by-case basis, the placement of more than one prisoner in a cell.
- (d) The completed Prisoner Classification form shall be attached to the Medical Screening form and the Observation Log as applicable.
- (e) Before placing any prisoner into a temporary holding cell with any other prisoner, members shall consider whether the prisoner may be at a high risk of being sexually abused or sexually harassed based on all available known information.(28 CFR 115.141).
- (f) If a prisoner will be housed in the same cell with any other prisoner, he/she shall be screened to assess his/her risk of being sexually abused by other prisoners or of being sexually abusive toward other prisoners. Members shall ask the prisoner about his/her own perception of vulnerability and shall consider the following criteria to screen prisoners for risk of sexual victimization, including (28 CFR 115.141):
 - 1. Whether the prisoner has a known or apparent mental, physical or developmental disability.
 - 2. The age of the prisoner.
 - 3. The physical build and appearance of the prisoner.
 - 4. Whether the prisoner has previously been incarcerated.
 - 5. The nature of the prisoner's alleged offense and criminal history.

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- (g) Any prisoner identified as being at a high risk for sexual victimization shall be provided with heightened protection. This may include continuous, direct sight and sound supervision, single-cell housing or placement in a cell that is actively monitored on video by a staff member who is available to immediately intervene, unless no such option is reasonably feasible (28 CFR 115.113; 28 CFR 115.141).

900.4.3 MASS ARRESTS EXCEEDING TEMPORARY HOLDING FACILITY CAPACITY

In the event of a group arrest that would exceed the maximum capacity of the Montclair Police Department Temporary Holding Facility, the excess arrestees shall be transferred, as soon as possible, to a San Bernardino County Sheriff's Department Detention Center, or released on a written promise to appear, if applicable. If a pre-planned event involving an anticipated high number of arrestees is scheduled; the Watch Commander or Incident Commander should arrange for additional staffing, and or facilities to accommodate booking and additional transportation needs. This includes:

- (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)

900.4.4 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Field Services 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 the individual may have the individual's consular officers notified of the arrest or detention and may communicate with them.
 - 1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
 - 1. If the country is on the mandatory notification list, then:

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- (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Tell the individual that this notification has been made and inform the individual without delay that the individual may communicate with consular officers.
 - (c) Forward any communication from the individual to the individual's consular officers without delay.
 - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
- 2. If the country is not on the mandatory notification list and the individual requests that the individual's consular officers be notified, then:
 - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
 - (b) Forward any communication from the individual to the individual's consular officers without delay.

900.5 SAFETY, HEALTH AND OTHER PROVISIONS

900.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Montclair Police Department, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including the individual's name.
- (b) Date and time of arrival at the Department.
- (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 Montclair 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.

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- (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. Only sworn police officers shall be responsible for the supervision of individuals in custody, all officers who are CPR and first-aid trained. Cardiopulmonary resuscitation equipment, including and AED, is located in the west room of the Temporary Holding Facility, along with first aid supplies. First aid equipment bags are also located in each police unit.

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 Montclair 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

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to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to the individual's health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

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 the individual's 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 the individual desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
 - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use the member's judgment in determining the duration of the calls.
 - 2. Within three hours of the arrest, the member supervising the individual should inquire whether the individual is a custodial parent with responsibility for a minor child, and notify the individual that the individual may make two additional telephone calls to a relative or other person for the purpose of arranging for the care of minor children (Penal Code § 851.5).
- (c) Calls between an individual in temporary custody and the individual's attorney shall be deemed confidential and shall not be monitored, eavesdropped upon, or recorded (Penal Code § 851.5(b)(1); 15 CCR 1068).
- (d) Individuals who are known to have, or are perceived by others as having, hearing or speech impairments shall be provided access to a telecommunication device which will facilitate communication (15 CCR 1067).

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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

Officers may carry Tasers while processing prisoners. Firearms and other weapons (e.g. knives, pepper spray, batons) 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, in the gun lockers outside of the Temporary Holding Facility or properly secured in a police unit. An exception may occur only during emergencies, upon approval of a supervisor.

All perimeter doors to the Temporary Holding Facility shall be kept locked at all times except during routine cleaning or maintenance when no prisoners are present, or in the event of an emergency, such as an evacuation. Cell doors are to be locked at all times when prisoners are detained in a holding cell in compliance with this policy. Cell doors should be unlocked electronically. A hard key is maintained in the Watch Commander's office in the event of system failure. Key card access to the Temporary Holding Facility is controlled via Command Staff through the Information Technology division at the City. Keys shall only be issued per the Equipment and Uniforms policy.

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 Occupational Disease and Work-Related Injury Reporting policies, or other applicable reporting process. A copy of all reports generated regarding the above circumstances shall be submitted as soon as reasonably practicable. The Facility Manager will retain a record of these reports for inspection purposes (15 CCR 1044).

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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).

900.5.11 PRISONER FOOD SERVICE

Prisoner meals will be provided for prisoners detained in excess of six hours, inclusive of time in custody prior to entering the Temporary Holding Facility. Supervisor approval is required if meals are to be provided to a prisoner prior to six hours in custody. Prisoner meals should be purchased from local restaurants utilizing petty cash maintained in the Watch Commander's office. Receipts for meal purchases should be placed in the petty cash envelope. Such use of petty cash shall be documented on the Patrol Sergeant's Shift Report. The responsible administrative aide shall replenish the fund as soon as practicable.

900.6 USE OF FORCE AND RESTRAINT DEVICES

No member of the Montclair Police Department shall use force on a prisoner as means of punishment, however members of this Department may use reasonable force where appropriate to overcome physical resistance per the Use of Force policy. Officers should remain cognizant of techniques required during the use of force in the Temporary Holding Facility which are unique due to the lack of available weapons and tools which are not normally permitted in the facility. 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. If an individual in custody is exhibiting behavior which requires the use of restraints, the Watch Commander shall be immediately notified. The Watch Commander shall arrange for removal without unnecessary delay an individual from the Temporary Holding Facility whose behavior does not warrant the removal of the restraints. This removal can be a transfer to another facility or any other lawful release.

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The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Montclair Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy. If the use of restraints other than handcuffs in the temporary holding facility is required, such application shall only be with the approval of the Watch Commander (15 CCR 1058).

Individuals in restraints shall be kept away from other unrestrained individuals in custody and constantly visually monitored by the responsible officer to ensure their safety..

900.6.1 PREGNANT ADULTS

Adults who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy. Adults known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall these adults be restrained by the use of leg irons, waist chains or handcuffs behind the body.

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. Restraints shall be removed when a professional who is currently responsible for the medical care of a pregnant inmate during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary. Upon confirmation of an inmate's pregnancy, that inmate shall be advised, orally or in writing, of the standards and policies governing pregnant inmates (Penal Code § 3407; Penal Code § 6030).

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, the individual's items of personal property shall be returned. If an inventory was conducted, the property released shall be compared with the inventory. If the individual is transferred to another facility, the member transporting the individual is to verify the personal property of the individual is properly documented by the receiving agency.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding the individual's property. The Watch Commander shall attempt to prove or disprove the claim.

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

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also should be conducted when the individual is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed.
- (b) The individual shall constantly be monitored by an audio/video system during the entire custody.
- (c) The individual shall have constant auditory access to department 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 the individual's well-being.
 - 4. Individuals who are sleeping or apparently sleeping should be awakened.
 - 5. Requests or concerns of the individual should be logged.

900.9 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The Field Services Lieutenant will ensure procedures are in place to address any suicide attempt, death, or serious injury of any individual in temporary custody at the Montclair Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Watch Commander, Chief of Police, and Investigation Lieutenant
- (c) Notification of the spouse, next of kin, or other appropriate person
- (d) Notification of the appropriate prosecutor
- (e) Notification of the City Attorney
- (f) Notification of the Coroner
- (g) Evidence preservation
- (h) In-custody death review reports in compliance with 15 CCR 1046
 - 1. A copy of the initial review report of an in-custody death shall be provided to the BSCC within 60 days of the death.

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- (i) Preparation of a written report to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)
 - 1. A copy of the report submitted to the Attorney General shall also be submitted to the BSCC within 10 days of the death (15 CCR 1046).

900.9.1 FACILITY SANITATION AND MAINTENANCE

The Watch Commander should inspect the Temporary Holding Facility during his/her shift to ensure that the detention area is clean and maintained to an acceptable level of cleanliness. The Watch Commander should ensure that the Temporary Holding Facility is cleaned, as necessary, in order to provide a proper custodial and working environment. Any maintenance problems shall be reported to applicable personnel and to the Facility Manager.

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 the individual's property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the Montclair 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 the individual 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 the person's personal needs as reasonable.

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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 Facility Manager will ensure any reasonably necessary supplemental procedures are in place to address the following issues (15 CCR 1029):

- (a) General security
- (b) Key control per the Equipment and Uniforms Policy reference Issued Office Keys and Access Cards
- (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 completed in collaboration with the City of Montclair Fire Department Deputy Fire Marshal (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 completed by the City of Montclair Public Works Department
- (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

The Facility Manager will at least annually review, evaluate, and make a record of security measures in the Temporary Holding Facility. The review and evaluation shall include internal and external security measures of the facility including security measures specific to prevention of sexual abuse and sexual harassment. The Facility Manager, upon completion of this review, shall complete a Temporary Holding Facility Review memorandum addressed to the Chief of Police regarding the outcome of the review (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).

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900.12 FIRE SAFETY

The Watch Commander should, as part of their per-shift Temporary Holding Facility inspection, inspect the Temporary Holding Facility to ensure:

- (a) No flammable materials are stored in the detention area
- (b) Fire extinguishers are serviceable
- (c) First aid kits are readily available and stocked

The Facility Manager or his/her designee should inspect the facility on a weekly basis. The results of the weekly inspection shall be documented in writing. The inspection record shall be retained for two years. (Title 15, California Code of Regulations § 1032)

900.12.1 FIRE PROCEDURES

- (a) In the event of a fire in the detention area the discovering employee should immediately:
 - 1. Notify the Fire Department, Watch Commander and on-duty patrol personnel simultaneously through Dispatch
 - 2. Initiate movement of all prisoners to an area of safety through the utilization of the evacuation plan
 - 3. Begin fire suppression procedures as applicable, in addition to the fire suppression system incorporated into the building (e.g. sprinklers, alarms)
- (b) Responding patrol officers under the direction of the Watch Commander should be responsible for:
 - 1. The evacuation of prisoners
 - 2. Obtaining medical services as needed
 - 3. Securing prisoners in a temporary holding area
 - 4. Arranging transportation of prisoners to the County Jail or other Temporary Holding Facility as necessary
 - 5. Initiating an investigation in conjunction with the Montclair Fire Department concerning the origin of the fire along with filing necessary reports.
- (c) The Facility Manager or his designee, in coordination with qualified instructional personnel, shall oversee the training of all department personnel in:
 - 1. The policies and procedures surrounding usage of the Temporary Holding Facility and Juvenile Detention Room; and
 - 2. Fire safety and evacuation plan including use of fire extinguishers
- (d) The Fire Marshal should conduct the required fire inspections at least once every two years. (H&S 13146.1(a)/13146(b).

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900.13 EVACUATION OF TEMPORARY HOLDING FACILITY

If an evacuation of the Temporary Holding Facility becomes necessary due to fire, natural disaster, or other emergency, the following should be considered:

900.13.1 PRIMARY CONCERNS

- (a) Safety of the public
- (b) Safety of Department personnel
- (c) Safety of prisoners
- (d) Security of prisoners

900.13.2 NOTIFICATION

In the event of an incident requiring the evacuation of the Temporary Holding Facility, the following personnel shall be notified as soon as practicable:

- (a) Watch Commander
- (b) All available sworn personnel
- (c) Fire Department
- (d) Medical aid
- (e) Facility Manager
- (f) Facility Administrator
- (g) Duty Command

900.13.3 EMERGENCY EVACUATION

When time permits, all prisoners will be restrained, as deemed necessary by the officer(s) conducting the evacuation. The evacuation will be conducted in an orderly fashion by one of the routes posted in the Temporary Holding Facility.

900.13.4 EVACUATION FORMATION AREA

All prisoners will form in the rear lot of the facility at a designated location where they will be held until the Temporary Holding Facility can again be safely occupied, or as in the case of an emergency of a long duration, until they can be transported to another facility.

If possible, juveniles are to be kept separate from adult prisoners, and females from male prisoners.

Only after the safety and security of the prisoners is assured will personnel, not detailed to prisoner security, participate in fire suppression or other emergency activities.

900.13.5 CITYWIDE OR REGIONAL DISASTERS

In cases of Citywide or regional disasters, the Watch Commander may authorize the immediate transfer of prisoners to the county jail facility or other detention facility.

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900.13.6 FIRST-AID/PROFESSIONAL MEDICAL ATTENTION

As necessary, evacuating personnel will apply first-aid techniques to those prisoners injured as a result of the emergency or injured during the evacuation procedure until professional medical aid arrives to assist.

900.13.7 REPORTS

The Watch Commander will ensure that any emergency evacuation of the Temporary Holding Facility is documented in a crime or incident report as applicable, and that copies of those reports be forwarded to the Temporary Holding Facility Manager.

900.14 ESCAPES, DISTURBANCES, CIVIL DISTURBANCES, TAKING OF HOSTAGES

When a member determines that any of the above listed situations is taking place or about to take place, the member shall immediately take appropriate steps to mitigate the situation, and shall, as soon as practicable, notify the Watch Commander. The Watch Commander shall assess the severity of the incident and take necessary steps to ensure the safety of members, prisoners, and other involved persons. The Watch Commander shall ensure that requests for appropriate resources are made. These resources may include additional personnel from other law enforcement agencies and activation of a SWAT team. The Duty Commander shall be notified as soon as practicable.

The Watch Commander shall also immediately ascertain if the escapee was able to access the interior of the Police Department, or escaped outdoors. If the escapee may be inside the Police Department, the Watch Commander shall take steps to ensure the safety of employees inside of the building. This may include, but is not limited to notification of surrounding agencies, evacuation of the building, and the switching of Dispatch to an outside agency while evacuating Dispatch.

In the event of a hostage or barricade incident which develops in the Temporary Holding Facility, the Hostage and Barricade Incidents policy may be applied keeping in consideration the unique circumstances which may be present during a situation in the Temporary Holding Facility. This includes, but is not limited to, possible employee victims, suicidal subjects, and additional resources available to monitor the situation (i.e. CCTV, communication methods).

900.15 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):

- (a) Applicable minimum jail standards
- (b) Jail operations liability
- (c) Separation of incarcerated persons
- (d) Emergency procedures and planning, fire safety, and life safety

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- (e) Suicide prevention
- (f) De-escalation
- (g) Juvenile procedures
- (h) Racial bias
- (i) Mental illness

Eight hours of refresher training shall be completed every two years (15 CCR 1024).

The Support Services Lieutenant 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 Montclair 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 the individual's property, shoes, and clothing, including pockets, cuffs, and folds on the clothing, to remove all weapons, dangerous items, and contraband.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach, rectal cavity, or vagina of an individual.

Strip search - A search that requires an individual to remove or rearrange some or all of the individual's clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus, or outer genitalia. This includes monitoring an individual who is changing clothes, where the individual's underclothing, buttocks, genitalia, or female breasts are visible.

901.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

901.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after the individual's arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department 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 Montclair Police Department facilities. Except in exigent circumstances, the search should be conducted by

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a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

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 Montclair 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 the member's initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

901.5 STRIP SEARCHES

No individual in temporary custody at any Montclair Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

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- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
 - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

901.5.1 STRIP SEARCH PROCEDURES

Strip searches at Montclair Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

- (a) Written authorization from the Watch Commander shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks, or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include:
 - 1. The facts that led to the decision to perform a strip search.
 - 2. The reasons less intrusive methods of searching were not used or were insufficient.
 - 3. The written authorization for the search, obtained from the Watch Commander.
 - 4. The name of the individual who was searched.
 - 5. The name and sex of the members who conducted the search.
 - 6. The name, sex, and role of any person present during the search.
 - 7. The time and date of the search.

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8. The place at which the search was conducted.
 9. A list of the items, if any, that were recovered.
 10. The facts upon which the member based the member's belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia, or breasts while that individual is showering, performing bodily functions, or changing clothes, unless the individual would otherwise qualify for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect the individual's privacy and dignity.
- (h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Watch Commander shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.
- (i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name, and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

901.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

901.6 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

- (a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

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- (b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.
- (c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department 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 TRAINING

The Support Services Lieutenant shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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901.8 BODY SCANNER SEARCH

If a body scanner is available, a body scan search should be performed on all persons in custody upon entering the secure booking area of the facility. Members (Penal Code § 4030):

- (a) Within sight of the visual display of a body scanner that is depicting the body during a scan shall be of the same sex as the person being scanned, except for physicians or licensed medical personnel.
- (b) Should ask persons in custody if they are pregnant prior to a body scan and should not knowingly use a body scanner on a pregnant person.

901.9 GENDER IDENTITY OR EXPRESSION CONSIDERATIONS

If an individual who is subject to a strip search or physical body cavity search has a gender identity or expression that differs from their sex assigned at birth, the search should be conducted by members of the same gender identity or expression as the individual, unless the individual requests otherwise.

901.10 JUVENILES

No juvenile should be subjected to a strip search or a physical body cavity search at the Department.

The Chief of Police or the authorized designee should establish procedures for the following:

- (a) Safely transporting a juvenile who is suspected of concealing a weapon or contraband, or who may be experiencing a medical issue related to such concealment, to a medical facility or juvenile detention facility as appropriate in the given circumstances.
 - 1. Procedures should include keeping a juvenile suspected of concealing a weapon under constant and direct supervision until custody is transferred to the receiving facility.
- (b) Providing officers with information identifying appropriate medical and juvenile detention facilities to which a juvenile should be transported for a strip or body cavity search.

Nothing in this section is intended to prevent an officer from rendering medical aid to a juvenile in emergency circumstances (see the Medical Aid and Response Policy for additional guidance).

Prison Rape Elimination

902.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect, and respond to sexual abuse, harassment, and retaliation against individuals in custody in the Montclair Police Department Temporary Holding Facilities (28 CFR 115.111; 15 CCR 1029).

902.1.1 DEFINITIONS

Definitions related to this policy include:

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

Sexual abuse - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse (28 CFR 115.6; 15 CCR 1006):

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation

Sexual abuse also includes abuse by a staff member, contractor, or volunteer as follows, with or without consent of the individual in custody:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire

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- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above
- Any display by a staff member, contractor, or volunteer of the staff member's uncovered genitalia, buttocks, or breast in the presence of an individual in custody
- Voyeurism by a staff member, contractor, or volunteer

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an individual in custody that are directed toward another; repeated verbal comments or gestures of a sexual nature to an individual in custody by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6; 15 CCR 1006).

Transgender - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

902.2 POLICY

The Montclair Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Montclair Police Department will take immediate action to protect those in its custody who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162; 15 CCR 1029).

902.3 PREA COORDINATOR

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee department efforts to comply with PREA standards in the Montclair Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

- (a) Developing and maintaining procedures to comply with the PREA Rule.
- (b) Ensuring that any contract for the confinement of individuals in custody includes the requirement to adopt and comply with applicable PREA standards and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect those in custody from sexual abuse (28 CFR 115.113; 15 CCR 1029). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.
- (d) Developing methods for staff to privately report sexual abuse and sexual harassment of individuals in custody (28 CFR 115.151).

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- (e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators, and department leadership to an incident of sexual abuse (28 CFR 115.165).
- (f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):
 - 1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" or a similarly comprehensive and authoritative protocol.
 - 2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
 - 3. A process to document all referrals to other law enforcement agencies.
 - 4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
 - 5. In accordance with security needs, provisions to give, to the extent available, individuals in custody access to victim advocacy services if the individual is transported for a forensic examination to an outside hospital that offers such services.
- (g) Ensuring that individuals with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect, and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing, or vision disabilities) (28 CFR 115.116).
 - 1. The agency shall not rely on other individuals in custody for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the individual's safety, the performance of first-response duties under this policy, or the investigation of an individual's allegations of sexual abuse, harassment, or retaliation.
- (h) Publishing on the department's website:
 - 1. Information on how to report sexual abuse and sexual harassment on behalf of an individual in custody (28 CFR 115.154).
 - 2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).

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- (i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187; 34 USC § 30303; 15 CCR 1041).
 - 1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.
 - 2. The data shall be aggregated at least annually.
- (j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house individuals in custody overnight (28 CFR 115.193).
- (k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).
- (l) Ensuring that information for uninvolved incarcerated persons, family, community members, and other interested third parties to report sexual abuse or sexual harassment is publicly posted at the facility (15 CCR 1029).

902.4 REPORTING SEXUAL ABUSE, HARASSMENT, AND RETALIATION

Individuals in custody may make reports to any staff member verbally, in writing, privately, or anonymously of any of the following (28 CFR 115.151; 15 CCR 1029):

- Sexual abuse
- Sexual harassment
- Retaliation by other individuals in custody or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

Individuals in custody shall be notified of the department zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward a report of sexual abuse and sexual harassment to agency officials. This allows the individual to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

Further information on multiple internal ways for individuals in custody and uninvolved individuals in custody, family, community members, and other interested third parties to privately report sexual abuse and sexual harassment, retaliation by other individuals in custody or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents are also located on the City of Montclair (Police Department) website under the Prison Rape Elimination Act heading, and posted in the Police Department Temporary Holding Facility and lobby.

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Members of this Department may privately report sexual abuse and sexual harassment of individuals in custody. Any staff member who wishes to privately report sexual abuse and sexual harassment of individuals in custody may report in any of the manners afforded to the general public, report incidents to Command Staff, via the City of Montclair website, via the Montclair Police Department reporting for Alleged Sexual Abuse and Sexual Assault, and the sexual harassment form found online at the City of Montclair Website, or by any other means the member feels will retain their confidentiality or privacy. Retaliation against members of this Department for reporting of such abuse is strictly prohibited and subject to discipline.

902.4.1 MEMBER RESPONSIBILITIES

Department members shall accept reports from individuals in custody and third parties and shall promptly document all reports (28 CFR 115.151; 15 CCR 1029).

All members shall report immediately to the Watch Commander any knowledge, suspicion, or information regarding:

- (a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.
- (b) Retaliation against individuals in custody or the member who reports any such incident.
- (c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

902.4.2 WATCH COMMANDER RESPONSIBILITIES

The Watch Commander shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect, or violations leading to sexual abuse, harassment, or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Watch Commander shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that an individual in custody was sexually abused while confined at another facility, the Watch Commander shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Watch Commander shall document such notification (28 CFR 115.163).

If an alleged victim is transferred from the Temporary Holding Facility to a jail, prison, or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the individual's potential need for medical or social services, unless the individual requests otherwise (28 CFR 115.165).

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902.5 INVESTIGATIONS

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

902.5.1 FIRST RESPONDERS

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

- (a) Separate the parties.
- (b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.
- (d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

902.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

- (a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.
- (b) Interview alleged victims, suspects, and witnesses.
- (c) Review any prior complaints and reports of sexual abuse involving the suspect.
- (d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (e) Assess the credibility of the alleged victim, suspect, or witness on an individual basis and not by the person's status as a detainee or a member of the Montclair Police Department.
- (f) Document in written reports a description of physical, testimonial, documentary, and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.
- (g) Refer allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe an individual in custody sexually abused another individual in custody in the Temporary Holding Facility (28 CFR 115.178).

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- (h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

902.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

902.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No individual in custody who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

Victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

902.5.5 CONCLUSIONS AND FINDINGS

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or the City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history, and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with individuals in custody and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with individuals in custody by a contractor or volunteer.

902.6 RETALIATION PROHIBITED

All individuals in custody and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

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The Watch Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for individuals in custody or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Watch Commander or the authorized designee shall identify a staff member to monitor the conduct and treatment of individuals in custody or members who have reported sexual abuse and of those who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of individuals in custody, such monitoring shall also include periodic status checks.

902.7 REVIEWS AND AUDITS

902.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- (d) Assess the adequacy of staffing levels in that area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

902.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

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The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

- (a) Identification of any potential problem areas.
- (b) Identification of any corrective actions taken.
- (c) Recommendations for any additional corrective actions.
- (d) A comparison of the current year's data and corrective actions with those from prior years.
- (e) An assessment of the Department's progress in addressing sexual abuse.

The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Montclair Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

902.8 RECORDS

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

902.9 TRAINING

All department members and contractors who may have contact with individuals in custody shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Support Services Lieutenant shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and the right of individuals in custody to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which individuals in custody are most vulnerable.

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- The right of individuals in custody and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all individuals in custody.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.
- Sexual abuse evidence collection in confinement settings.
- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Support Services Lieutenant shall maintain documentation that employees, volunteers, contractors, and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current department members who may have contact with individuals in custody shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such members to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

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Chapter 10 - Personnel

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Montclair Police Department and that are promulgated and maintained by the Personnel Department.

1000.2 APPEAL DISCRETIONARY AUTHORITY

The Chief of Police retains discretionary authority and may make exception after review of the circumstances on a case by case basis. Appeals relating to any portion of Policy Manual § 1000 may only be made to the Chief of Police.

1000.3 POLICY

In accordance with applicable federal, state, and local law, the Montclair 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.

1000.4 RECRUITMENT

The Lieutenant responsible for recruitment shall employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy shall include:

- (a) Establishment of a written recruitment plan.
 - 1. The plan shall include an outline of steps for recruiting candidates who are representative of the community. This should include candidates who live in or are from the community, if appropriate and consistent with applicable laws and memorandums of understanding or collective bargaining agreements.
- (b) Identification of racially and culturally diverse target markets.
- (c) Use of marketing strategies to target diverse applicant pools.
- (d) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.

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- (e) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.
- (f) Employee referral and recruitment incentive programs.
- (g) Consideration of shared or collaborative regional testing processes.

The Administration Lieutenant 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 their status in the recruiting process.

1000.5 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 shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
 - 1. The personnel records of any applicant with prior peace officer experience in this state shall be requested from the appropriate law enforcement agency and reviewed prior to extending an offer of employment (Penal Code § 832.12).
 - 2. This includes review of prior law enforcement employment information maintained by POST (Penal Code § 13510.9).
- (b) Driving record
- (c) Personal and professional reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
 - 1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Lie detector test (when legally permissible) (Labor Code § 432.2)

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- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
 - 1. The Medical Suitability Declaration (POST form 2-363) provided by the evaluating physician shall be maintained in the candidate's background investigation file (11 CCR 1954).
 - 2. The Psychological Suitability Declaration (POST form 2-364) provided by the evaluator shall be maintained in the candidate's background investigation file (11 CCR 1955).
- (j) Review board or selection committee assessment
- (k) Relevant national and state decertification records, if available
- (l) Any relevant information in the National Law Enforcement Accountability Database

1000.5.1 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).

1000.6 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 Montclair 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).

1000.6.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.6.2 STATE NOTICES

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

1000.6.3 REVIEW OF SOCIAL MEDIA SITES

All peace officer candidates shall be subject to a social media search for statements, postings, and/or endorsements made by the candidate that are relevant to suitability for peace officer employment, including bias-relevant information consistent with the requirements of 11 CCR

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1955(d)(3) and any public expression of hate made in an online forum, as defined in Penal Code § 13680(g) (11 CCR 1953(e)(12)).

Due to the potential for accessing unsubstantiated, private, or protected information, the Department shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Department 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 Captain should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.6.4 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall include sections that summarize relevant Background Investigation Dimensions and include any findings of behaviors, traits, and/or attributes relevant to bias per the Bias Assessment Framework as described in the POST Background Investigation Manual. The report shall identify the data sources reviewed for the findings, regardless of weight given. The report shall include narrative information in the format described in 11 CCR 1953(g)(1). The report shall also include whether the candidate has engaged or is engaging in membership in a hate group, participation in hate group activity, or advocacy or public expressions of hate, pursuant to Penal Code § 13680 et seq. (11 CCR 1953).

The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation including relevant documentation of bias-related findings and documentation obtained through the social media search shall be included in the candidate's background investigation file (11 CCR 1953).

The background investigator shall document proof of verification of qualification for peace officer appointment on the Verification of Qualification for Peace Officer Appointment form and forward to the Administration Lieutenant for final review and submission to POST (11 CCR 1953).

The background investigation file shall be made available during POST compliance inspections (11 CCR 1953).

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1000.6.5 RECORDS RETENTION

The background report and all supporting documentation shall be maintained according to the established records retention schedule and at a minimum as follows (Government Code § 12946; 11 CCR 1953):

- (a) Reports and documentation for candidates hired by the Department shall be retained for the entire term of employment and a for a minimum of four years after separation from the Department.
- (b) Reports and documentation for candidates not hired by the Department for a minimum of four years.

1000.6.6 INVESTIGATOR TRAINING

Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

1000.6.7 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 Montclair Police Department, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

1000.6.8 CONFIDENTIAL POST RECORDS

Records released to the Department from POST that were previously withheld from the candidate by POST shall be kept confidential as provided in Penal Code § 13510.9.

1000.7 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

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1000.8 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California 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 Personnel Department should maintain validated standards for all positions.

1000.8.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by POST or required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

- (a) Free of any felony convictions
- (b) Be legally authorized to work in the United States under federal law
- (c) At least 21 years of age except as provided by Government Code § 1031.4
- (d) Fingerprinted for local, state, and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation (11 CCR 1953)
- (f) High school graduate, passed the GED or other high school equivalency test, or obtained a two-year, four-year, or advanced degree from an accredited or approved institution
- (g) Free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)
- (h) Free of hate group memberships, participation in hate group activities, or advocacy of public expressions of hate within the previous seven years, and since 18 years of age, as determined by a background investigation (Penal Code § 13681)
- (i) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):
 - 1. Reading and writing ability assessment (11 CCR 1951)
 - 2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)
- (j) POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f)

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- (k) Not identified in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or similar federal government database that reflects revoked certification for misconduct or reflects misconduct that would result in a revoked certification in California.

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

1000.8.2 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)

1000.9 PROBATIONARY PERIODS

Command Staff should coordinate with the Montclair Personnel Department to identify positions subject to probationary periods and procedures for:

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

Special Assignments and Promotions

1001.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Montclair Police Department.

1001.2 POLICY

The Montclair Police Department determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief of Police.

1001.3 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

- **Special Enforcement Team (SET):** Three-year term. Flexible work schedule, subject to adjustment at short notice. No compensation for any on-call or stand-by
- **Detective:** Four-year term. Detective Bureau additional pay compensates for all on-call or standby pay. No clothing or uniform allowance is paid. The on-call detective shall have a response time to the station of 90 minutes.
- **Motor Officer:** Five-year term. A four-hour period each eight working days may be authorized by a supervisor for motorcycle maintenance.
- **Field Training Officer (FTO):** No term limit
- **Uniform Patrol:** No term limit
- **School Resource Officer (SRO):** Three-year term
- **Plaza Officer:** Minimum of one shift rotation
- **Specialized Supervisor Assignments (SET, Detective Bureau):** Two-year term. Applies to assignments outside of Patrol for sergeants.
- **Modified Duty Assignments:** May be created from time to time to meet the needs of the organization
- **Traffic Car:** One-year term
- **Canine Handler:** Four-year term. Able to complete a 1.5 mile run in 15 minutes or less. Residing in an adequately fenced (minimum 5-foot high with locking gates), single-family residence.
- **IRNET Investigator:** Three-year term. Flexible work schedule, subject to adjustment at short notice. No compensation for any on-call or stand-by. No clothing allowance.

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1001.3.1 ASSIGNMENT TERMS AND CONDITIONS

Assignment to any specialized position shall be based on the criteria established at the time of the position announcement. In addition to any criteria unique to the specialized assignment, the following minimum qualifications shall be applicable to all specialized positions:

- (a) Sworn peace officer
- (b) Off of probation or 12 combined months of solo independent peace officer experience with a Basic POST Certificate with this department or another POST certified agency.

Assignment terms as listed are approximate and may be extended or abbreviated at the discretion of the Chief of Police.

1001.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignments and promotion:

- (a) Presents a professional, neat appearance.
- (b) Maintains a physical condition that aids in his/her performance.
- (c) Expressed an interest in the assignment.
- (d) Demonstrates the following traits:
 - 1. Emotional stability and maturity
 - 2. Stress tolerance
 - 3. Sound judgment and decision-making
 - 4. Personal integrity and ethical conduct
 - 5. Leadership skills
 - 6. Initiative
 - 7. Adaptability and flexibility
 - 8. Ability to conform to department goals and objectives in a positive manner
 - 9. Position knowledge and competence

1001.3.3 SWORN NON-SUPERVISORY SELECTION PROCESS

Selection and assignment of members to special assignment positions outside a standard assignment is considered a privilege and not a right and does not constitute a promotion. Applicable benefits or pay related to the position are not salary and apply only as incorporated within an existing Memorandum of Understanding (MOU) between the City of Montclair and any bargaining unit.

Officers completing one special assignment term may apply to a new special assignment without being required to return to Patrol. However, members who have not held a previous special assignment may be given preference during the selection process depending on overall

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qualifications of the candidates. Assignment eligibility lists are valid for six months. The assignment eligibility list may be extended at the discretion of the Chief of Police.

1001.4 PROMOTIONS

Promotional eligibility lists are valid for six months. Promotional eligibility lists may be extended at the discretion of the Chief of Police.

Members desiring to apply for promotional positions should contact the City Personnel Division for any changes in the minimum requirements for the position sought.

1001.4.1 POLICE SERGEANT

The following are the requirements and desired attributes for the position of Police Sergeant:

(a) Requirements:

1. Sworn peace officer
2. Off of probation
3. POST Basic Certificate
4. Employed in a full-time peace officer capacity for no less than three preceding years prior to the end of the application closing.
5. Minimum of 40 semester / 60 quarter college units as verified by transcript (POST training points not converted to college units to not qualify).

(b) Desired Attributes:

1. Investigative experience
2. POST Intermediate Certificate
3. POST Advanced Certificate
4. The preceding three or more years of peace officer experience are with the City of Montclair

1001.4.2 POLICE LIEUTENANT

The following are the requirements and desired attributes for the position of Police Lieutenant:

(a) Requirements:

1. Sworn peace officer
2. Off of probation
3. POST Supervisory Certificate
4. Associate's degree or at least 60 semester college units
5. All other minimum requirements for Police Sergeant

(b) Desired Attributes:

1. POST Advanced Certificate
2. Bachelor's Degree

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3. Supervisory Leadership Institute (SLI) graduate
 4. The receding three or more years of peace officer experience are with the City of Montclair
- (c) Should there at any time be fewer than two qualified applicants for the position of Police Lieutenant, the Department may open the recruitment to peace officers outside of the Department. In such case, all minimum qualifications shall apply.

1001.4.3 CAPTAIN

The following are the requirements and desired attributes for the position of Captain:

- (a) Requirements:
1. Sworn peace officer
 2. POST Management Certificate
 3. Bachelor's degree or be enrolled in a Bachelor's degree program (degree completion is required within one year of appointment)
 4. At least ten years of progressively responsible experience as a peace officer in the State of California
 5. All other minimum requirements for Police Lieutenant
- (b) Desired Attributes:
1. Five years of broad administrative and supervisory experience at a level of Lieutenant or above
 2. FBI National Academy graduate
 3. Command College graduate
 4. Master's degree

1001.4.4 STAFF EVALUATIONS

Staff evaluations should be incorporated as a portion of internal promotions and may be incorporated as a facet of any testing process for other specialized assignments.

- (a) Staff evaluations should occur:
1. After the written component
 2. Before the oral component
- (b) The staff member responsible for the staff evaluation process should present the following at the time of the staff evaluation:
1. Candidate resume and application
 2. Candidate assignment history
 3. Candidate personnel file
 4. Candidate evaluations

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5. Evaluation criteria (as approved in advance by staff)

1001.5 CHIEF OF POLICE

The Chief of Police is appointed by the City Manager. The position requirements are on file with the City of Montclair Personnel Division and are subject to change at the discretion of the City Manager.

Grievance Procedure

1002.1 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. Our Department's philosophy is to promote a free verbal communication between employees and supervisors.

1002.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- City rules and regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

1002.2 PROCEDURE

If a member believes he/she has a grievance as defined above, the member shall observe the procedure outlined in the current Memorandum of Understanding (MOU).

Reporting of Arrests, Convictions, and Court Orders

1003.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions, and court orders restrict their ability to perform the official duties and responsibilities of the Montclair Police Department. This policy will also describe the notification requirements and procedures that certain retired officers must follow when an arrest, conviction, or court order disqualifies them from possessing a firearm.

1003.2 POLICY

The Montclair Police Department requires disclosure of member arrests, convictions, and certain court orders to maintain the high standards, ethics, and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Department.

1003.3 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and California law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members and retired officers with identification cards issued by the Department are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order, and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1003.4 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty, or nolo contendere plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on a member's ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

While legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust, and shall be reported as provided in this policy.

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Reporting of Arrests, Convictions, and Court Orders

1003.5 REPORTING

All members and all retired officers with an identification card issued by the Department shall immediately notify their supervisors (retired officers should immediately notify the Watch Commander or the Chief of Police) in writing of any past or current criminal detention, arrest, charge, or conviction in any state or foreign country, regardless of whether or not the matter was dropped or rejected, is currently pending or is on appeal, and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their supervisors (retired officers should immediately notify the Watch Commander or the Chief of Police) in writing if they become the subject of a domestic violence-related order or any court order that prevents the member or retired officer from possessing a firearm or requires suspension or revocation of applicable POST certification.

Any member whose criminal arrest, conviction, or court order restricts or prohibits that member from fully and properly performing their duties, including carrying a firearm, may be disciplined. This includes but is not limited to being placed on administrative leave, reassignment, and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on the member's own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired officers may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

1003.5.1 NOTIFICATION REQUIREMENTS

A Lieutenant responsible shall submit within 10 days of final disposition a notice to POST of a conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

Drug- and Alcohol-Free Workplace

1004.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

1004.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

1004.2.1 PURCHASE OR POSSESSION OF DRUGS OR ALCOHOL ON-DUTY

Department members shall not purchase or possess alcohol or other controlled substances while on-duty except in the performance of their assignment as described in Policy Manual § 1012.2.

Department members shall not illegally manufacture any alcohol or drugs while on-duty or at any time.

1004.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

1004.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

1004.3.2 MEDICAL CANNABIS

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

1004.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using

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controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

1004.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Personnel Department, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1004.5.1 ADDITIONAL SCREENING TESTS FOR OFFICERS

The Department may request an employee to submit to a screening test if the employee:

- (a) Is a law enforcement officer and, during the performance of his/her duties, discharges a firearm other than by accident.
- (b) During the performance of his/her duties, drives a motor vehicle in such a manner as to cause bodily injury to him/herself or another person or substantial damage to property.

1004.5.2 SCREENING TEST REFUSAL

An employee is subject to disciplinary action if he/she:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 24 hours after being requested by his/her appointing authority, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.

1004.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

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If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

1004.7 SCREENING TESTS

A supervisor may require an employee to submit to a screening under any of the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing the employee's ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm in the performance of the employee's duties (excluding training or authorized euthanizing of an animal).
- (c) The employee discharges a firearm issued by the Department while off-duty, resulting in injury, death, or substantial property damage.
- (d) The employee drives a motor vehicle in the performance of the employee's duties and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

1004.7.1 SUPERVISOR RESPONSIBILITIES

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

1004.7.2 DISCIPLINE

An employee may be subject to disciplinary action if the employee:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that the employee took the controlled substance as directed, pursuant to a current and lawful prescription issued in the employee's name.

1004.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

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1004.9 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

Civil Cases

1005.1 PURPOSE AND SCOPE

The Department has established guidelines and procedures for involvement in civil cases.

1005.2 INVOLVEMENT IN CIVIL CASES

Members of the Department shall not involve themselves in the civil actions or disputes of any persons nor shall they presume to adjudicate any civil dispute or give legal advice in civil matters.

Members of the Department shall, however, act to prevent or suppress any breach of the peace or disturbance which may grow out of such a dispute.

Members shall not testify in civil cases unless legally summoned. Members shall notify the Chief of Police whenever they institute a civil action arising out of their official duties. They shall not use their positions with the Department as a means of forcing or intimidating person with whom they are engaged in civil controversy to settle the case in favor of the member.

Members of the Department who have a civil suit filed against them by reason of an act performed by them in the line of duty shall immediately notify their supervisor. The Chief of Police shall be furnished a copy of the complaint together with an accurate and complete report pertaining to the incident in question so that the City Attorney may be notified of the pending suit and relevant facts.

- (a) If the member is desirous of having the City defend him/her against any claim or action arising out of an act or omission occurring within the scope of his/her employment, a written request must be made not less than ten days before the trial begins. If such request is made and the member reasonably cooperates in good faith in the defense of this claim or action, the City shall pay any judgment, compromise, or settlement of the claim or action to which the City has agreed (Government Code § 825b).
- (b) The City is authorized to pay that part of a claim or judgment that is punitive or exemplary damages if the City finds all of the following:
 - 1. Member was acting within course and scope of his/her employment
 - 2. Member was acting in good faith without malice and in the best interest of the City
 - 3. Payment would be in the best interest of the City (Government Code § 825b)

Members while on-duty shall not serve civil papers, except as directed by a supervisor.

The Department designates the Records Supervisor or the on-duty Watch Commander as acceptors for civil law suit summons service involving this department on behalf of the Department. No member of the Department should accept civil summons for members where the incident is not connected with their employment. Code of Civil Procedures § 415.20 does permit a summons to be left at a person's place of employment. Should this occur, our sole obligation is to inform the member of the summons being left. If possible, also inform the server that this is the extent of the Department's obligation.

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Members shall appear whenever civilly subpoenaed unless "called off" prior to the court time or placed on an on-call status.

1005.3 USING POLICE DEPARTMENT RESOURCES FOR CIVIL ACTION

Members are prohibited from using resources in association with any portion of their independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment, and non-subpoenaed records.

Sick Leave

1006.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.), the California Family Rights Act, leave for victims of crime or abuse, or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

1006.2 POLICY

It is the policy of the Montclair Police Department to provide eligible employees with a sick leave benefit.

1006.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

1006.3.1 NOTIFICATION

All members should notify the Watch Commander or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with no less than 30 days' notice of the impending absence (Labor Code § 246).

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

1006.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return

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to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

1006.5 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Personnel Department as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
 - 1. Negatively affected the member's performance or ability to complete assigned duties.
 - 2. Negatively affected department operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

1006.6 REQUIRED NOTICES

The Personnel Officer shall ensure:

- (a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.
- (b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

Communicable Diseases

1007.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

1007.1.1 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 Montclair Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1007.2 POLICY

The Montclair 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.

1007.3 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):

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- (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).

1007.4 EXPOSURE PREVENTION AND MITIGATION

1007.4.1 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.

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- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
 - 1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1007.4.2 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).

1007.5 POST EXPOSURE

1007.5.1 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.

1007.5.2 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 on a Supervisor's Report of Accident (exposure report) and related forms (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)

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- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor should document in the Supervisor's Report of Accident whether the affected member would like the person who was the source of the exposure to be tested for communicable diseases. Additionally, 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).

The Supervisor's Report of Accident (exposure report) shall be forwarded through the chain of command to the ECO (Support Services Lieutenant) and to the City Personnel Officer.

1007.5.3 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.

1007.5.4 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).

1007.5.5 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.

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- (b) Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).
- (d) Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).
- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the City Attorney to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

1007.6 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.

1007.7 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.

Smoking and Tobacco Use

1008.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Montclair Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

1008.2 POLICY

The Montclair Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

Employees in uniform are prohibited from smoking or using tobacco products while on a call or interacting with the general public.

Personnel Complaints

1009.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Montclair 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.

1009.2 POLICY

The Montclair 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.

1009.3 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.

1009.3.1 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 Command Staff, 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 Chief of Police, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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1009.3.2 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.

1009.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1009.4.1 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 City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1009.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs, or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of the complaining party's statement at the time it is filed with the Department (Penal Code § 832.7).

1009.4.3 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).

1009.4.4 HATE COMPLAINTS AGAINST PEACE OFFICERS

Internal complaints or complaints from the public shall be accepted and investigated in accordance with this policy where it is alleged that an officer has in the previous seven years, and since 18

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years of age, engaged in membership in a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

1009.5 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.

1009.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1009.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the on-duty supervisor or Watch Commander, 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.
 - (a) The original complaint form will be directed to the Chief of Police, via the chain of command, who will review the complaint, issue an Administrative Investigation (AI) number to the complaint, and assign a supervisor to investigate the allegation(s).
 - (b) 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 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.
 - (a) Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - (b) 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 Chief of Police via the chain of command.

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- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief of Police is notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Chief of Police when the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination. The Chief of Police shall contact the Personnel Department and advise them of the current investigation..
- (f) Forwarding unresolved personnel complaints to the Chief of Police, via the chain of command, 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.

1009.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of Command Staff, 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 Montclair 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.

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- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's *Brady* list or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1009.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format; including but not limited to the following headings:

Brief - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint. It is not a recounting of the entire incident, but a brief, concise statement of the circumstances and a brief summary of the facts giving rise to the investigation.

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Allegations - A list of the allegations separately, which may include applicable policy sections and/or laws, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Statements - A thorough documentation of the interview statements of the complainant/s and witnesses. When applicable, comprehensive summaries of member and witness statements may suffice. Each person's name, address, telephone number(s), and age shall precede the statement narrative. When applicable, department member names or current members of outside law enforcement agency's names alone will satisfy this requirement.

Officer's Notes - If applicable.

Attachments - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1009.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of an officer were found to violate law or department policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1009.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

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1009.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

1009.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member's consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

1009.7.1 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

1009.8 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.

1009.9 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.

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A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Montclair 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.

1009.10 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 provide input, if necessary, before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

1009.10.1 CAPTAIN RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Captain shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Captain 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 Captain 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 Captain 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.

1009.10.2 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 Captain 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 or his/her designee 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 (absent an exception set forth in Government Code § 3304(d) or 3508.1) 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 seven days of receiving the notice.

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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.

1009.10.3 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)).

1009.10.4 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)).

1009.11 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.

1009.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline (Penal Code § 13510.8).

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1009.13 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).

1009.14 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.

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.

in the event a probationary member is terminated solely for unsatisfactory performance or the failure to meet department standards, the member shall have no right to appeal and the following shall be considered:

- (a) Termination of a probationary member for such failure to pass probation shall be so reflected in the member's personnel file.
- (b) In the event that a probationary member is disciplined or terminated for misconduct, the member shall only be entitled to appeal the decision in the same manner as set forth in the Skelly procedure as set forth above. This appeal process may be held prior to or within a reasonable time after the imposition of discipline.
- (c) At all times during any investigation of allegations of misconduct involving a probationary officer, such officer shall be afforded all procedural rights set forth in Government Code § 3303, Government Code § 3304, and applicable department policies.
- (d) A probationary member's appeal of disciplinary action shall be limited to an opportunity for the member to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure should be construed to establish any sort of property interest in or right to the member's continuation of employment.

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- (e) The burden of proof for any probationary member's appeal of disciplinary action shall rest with the member and will require proof by a preponderance of the evidence.
- (f) In the event a probationary member meets his/her burden of proof in such a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the member's personnel file.
- (g) In the event a probationary member fails to meet his/her burden of proof in such a disciplinary appeal, the member shall have no further right to appeal beyond the Chief of Police.

1009.15 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.

1009.16 REQUIRED REPORTING TO POST

The Chief of Police or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain officer personnel events, including but not limited to (Penal Code § 13510.9):

- (a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.
 - 1. A POST affidavit-of-separation form shall be executed and maintained by the Department and submitted to POST as required by Penal Code § 13510.9 and 11 CCR 1003.
- (b) Events that could affect an officer's POST certification, such as:
 - 1. Complaints, charges, or allegations of serious misconduct (as defined by Penal Code § 13510.8).
 - 2. Findings of civilian review boards.
 - 3. Final dispositions of any investigations.
 - 4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an officer or the Montclair Police Department based on allegations of conduct by an officer.

The Chief of Police or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) within the applicable timeframe provided in Penal Code § 13510.9.

1009.16.1 NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

The Chief of Police or the authorized designee shall report allegations of serious misconduct by an officer to POST and the report shall include the following (11 CCR 1207):

- (a) Name of the Department
- (b) Administrative case number

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- (c) Name, current address, and phone number of the complainant, if available
- (d) Name, POST ID, current address, and phone number of the involved officer
- (e) A summary of the alleged misconduct including:
 - 1. A narrative of the allegations
 - 2. Date and time of incidents
 - 3. Location of occurrence
 - 4. Any witness information, if available
 - 5. Summary of arrest or indictment of involved officer
- (f) A change in employment status of the involved officer (e.g., administrative leave, suspension, termination)
- (g) Name and contact information of the assigned investigator

The Chief of Police or the authorized designee shall provide updates of the investigation to POST every 90 days until the final disposition in the method designated by POST (11 CCR 1207).

Upon completion of the investigation, the Chief of Police or the authorized designee shall submit to POST the final disposition of the investigation as well as investigation materials and the officer's service record as provided by 11 CCR 1207.

1009.16.2 ADDITIONAL NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

Additional notification shall be made to POST (11 CCR 1207):

- (a) If the imposed disciplinary action is pending appeal or other review through an administrative or judicial proceeding:
 - 1. The Department shall provide the name of the body conducting the proceeding.
 - 2. The status of the proceeding, if known.
- (b) If criminal charges are pending:
 - 1. The name of the court having jurisdiction over the criminal charges against the officer.
 - 2. The status of the criminal case, if known.

Seat Belts

1010.1 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).

1010.1.1 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.

1010.2 POLICY

It is the policy of the Montclair Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1010.3 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.

1010.4 TRANSPORTING PERSONS IN CUSTODY

Persons who are in custody should be in a seated position and secured in the rear seat of any department vehicle with a restraint system or, when a restraint system is not available, by seat belts provided by the vehicle manufacturer. The restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

An incarcerated person in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1010.5 SEAT BELT INSPECTION

Members shall, as part of inspecting their vehicles at the beginning of their tour of duty, inspect the seat belts. If the seat belts are found to be damaged or defective, that fact shall be reported immediately to their supervisor and listed on a vehicle repair order to be forwarded to Technical Services.

1010.6 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.

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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.

1010.7 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).

1010.8 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.

1010.9 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

1011.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1011.2 POLICY

It is the policy of the Montclair 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.

1011.3 ISSUANCE OF BODY ARMOR

The Technical Services Specialist shall ensure that all body armor is uniquely fitted and issued to all officers when the officer begins service at the Montclair Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Technical Services Specialist 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.

1011.3.1 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.

1011.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

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1011.3.3 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.

Personnel Records

1012.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1012.2 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).

1012.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently retained.
- (e) Discipline records, including copies of sustained personnel complaints (see the Personnel Complaints Policy).
 - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least four years (Government Code § 12946).
 - 2. Disciplinary action resulting from a sustained civilian's complaint involving misconduct shall be maintained pursuant to the established records retention schedule and at least 15 years (Penal Code § 832.5).
 - 3. A civilian's complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).
- (f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment (Government Code § 3305).
 - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
 - 2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

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3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).
- (g) Commendations and awards.
- (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1012.4 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.

1012.5 TRAINING FILE

An individual training file shall be maintained by the Support Services Lieutenant 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 Support Services Lieutenant or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Support Services Lieutenant or supervisor shall ensure that copies of such training records are placed in the member's training file.

1012.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of Command Staff in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or their designee.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

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Investigation files arising out of sustained civilian's complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least four years (Government Code § 12946).

Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

1012.7 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.

1012.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, City Attorney or other attorneys or representatives of the City in connection with official business.

1012.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

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The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

1012.8.2 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).

1012.8.3 RELEASE OF LAW ENFORCEMENT GANG INFORMATION

Information relating to the termination of an officer from this department for participation in a law enforcement gang shall be disclosed to another law enforcement agency that is conducting a pre-employment background investigation except where specifically prohibited by law (Penal Code § 13670).

1012.8.4 RELEASE OF PEACE OFFICER RECORDS RELATING TO HATE COMPLAINTS

Records relating to an officer for an investigation of a hate complaint described in Penal Code § 13682 with a sustained finding that the officer engaged in membership in a hate group, participated in a hate group activity, or advocacy of public expressions of hate are not confidential and shall be made available for public inspection through a public records request (Penal Code § 13683).

Records disclosed may be redacted as provided in Penal Code § 13683.

1012.9 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 in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(3):

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- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(8) or other law, the following records (hereinafter qualifying records) shall be made available for public inspection no later than 45 days from the date of a request (Penal Code § 832.7(b)(1)):

- (a) Records relating to the report, investigation, or findings of:
 - 1. The discharge of a firearm at another person by an officer.
 - 2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an officer.
 - 3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
 - 4. A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.
- (b) Records relating to an incident where a sustained finding was made by the Department or oversight agency regarding:
 - 1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
 - 2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.
 - 3. An officer engaged in conduct including but not limited to verbal statements, writings, online posts, recordings, and gestures involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition,

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genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

4. An officer made an unlawful arrest or conducted an unlawful search.

Qualifying records will be made available regardless of whether the officer resigns before the Department or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(4)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(5). However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(5)).

1012.9.1 REDACTION

The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of qualifying records made available for release (Penal Code § 832.7(b)(6)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers
- (b) Information that would compromise the anonymity of whistleblowers, complainants, victims, and witnesses
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(7)).

1012.9.2 DELAY OF RELEASE

Unless otherwise directed by the Chief of Police, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of qualifying records due to any of the following conditions (Penal Code § 832.7):

- (a) Active criminal investigations

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1. Disclosure may be delayed 60 days from the date the misconduct or use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
 2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who engaged in misconduct or used the force.
- (b) Filed criminal charges
1. When charges are filed related to an incident in which misconduct occurred or force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations
1. Disclosure may be delayed until:
 - (a) There is a determination from the investigation whether the misconduct or use of force violated law or department policy, but no longer than 180 days after the date of the department's discovery of the misconduct or use of force or allegation of misconduct or use of force

1012.9.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.
 1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
 - (a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about misconduct or use of force by officers.

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In cases where an action to compel disclosure is brought pursuant to Government Code § 7923.000, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(8)).

1012.10 MEMBERS' ACCESS TO THEIR PERSONNEL RECORDS

Any member may request access to the member's own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from the member's personnel records shall file a written request to the Chief of Police through the chain of command. The Department 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, 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.

1012.11 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

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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.

Peer Support Program

1013.1 PURPOSE AND SCOPE

The Department has partnered with The Counseling Team International to develop an in-house Peer Support Program to provide assistance and support to employees. The primary goal of the Peer Support Program goal is to assist peers with stresses caused by personal and/or professional problems. This policy is intended to provide guidelines for Peer Supporters and Department members.

1013.2 DEFINITION

The Peer Support Program is a resource that offers assistance and support to employees when personal or professional problems negatively affect their work performance, family unit, or self.

The program is designed to:

- (a) Provide emotional support during and after times of personal or professional crisis to employees in need of assistance.
- (b) Promote trust, allow anonymity, and preserve confidentiality for persons seeking peer support within the guidelines of the program.
- (c) Develop Peer Supporters who can identify personal conflicts and provide guidance or referral to professional/alternate resources as required.
- (d) Maintain an effective peer support training and response program.

1013.3 ROLE OF PEER SUPPORTERS

Peer Supporters provide assistance to employees in time of stress and crisis. The responsibilities of Peer Supporters include:

- (a) Provide trust, anonymity, and assure confidentiality in compliance with this policy, to employees who seek assistance from the Peer Support Program.
- (b) Attend the Peer Support training seminars: Additional training may be required as this program evolves.
- (c) Provide assistance and support on a voluntary basis to employees and family, referring employees to the appropriate outside resources when necessary.
- (d) Be available to individuals for additional follow-up support.
- (e) Maintain contact with the Peer Support Program Coordinator regarding program activities.
- (f) Agree to be contacted and, if available, respond at any hour.

The Peer Supporter is not exempt from federal, state, local laws, or Department policy. Peer Supporters should contact the Peer Support Program Coordinator for assistance and guidance.

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1013.4 ROLE OF PEER SUPPORT PROGRAM COORDINATOR

The Support Services Lieutenant has been designated as the Peer Support Program Coordinator. The Peer Support Program Coordinator acts as the primary liaison between the Peer Supporters, the Department, The Counseling Team, and resource persons. The Program Coordinator serves as the link to ensure that the Peer Support Program is being managed in accordance with the goals and objectives established for the program.

The duties of the Program Coordinator include:

- (a) Oversight of the Peer Support Program
- (b) Recruiting and coordinating the screening of the applicants.
- (c) Coordinating training of Peer Supporters
- (d) Developing and researching resources to assist individuals when problem areas are identified.
- (e) Providing guidance to Peer Supporters when problems occur.
- (f) Acting as a liaison between the Department and The Counseling Team.

1013.5 PEER SUPPORT PROGRAM SELECTION PROCESS

The Peer Support Coordinator will evaluate the staffing needs of the Peer Support Program. If the need arises for personnel to be assigned to the Program, the Peer Support Coordinator shall receive authorization to initiate a recruitment from the Chief of Police. The selection process for the position shall be based on the criteria established at the time of the position announcement. The Peer Support Coordinator should consult with The Counseling Team for assistance in the testing and selection process.

Candidates for the position must meet the following criteria:

- (a) Agree to maintain confidentiality as authorized by this policy
- (b) Be empathetic and possess interpersonal and communication skills.
- (c) Must attend and successfully complete the Basic Peer Support training.
- (d) Must attend and successfully complete required on-going training as determined by the Department.

Peer Supporters may voluntarily withdraw from participation and resign their appointment at any time. Resignation letters shall be forwarded to the Peer Support Coordinator via chain-of command.

The Chief of Police may remove a Peer Supporter from participation in the program for poor job performance, or for conduct inconsistent with program policy and objectives.

1013.6 CONFIDENTIALITY

Peer Supporters should strive to maintain confidentiality of information shared during a Peer Support session to the extent possible under this policy. Members seeking assistance should

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understand that confidentiality of communications with members of the Peer Support Program is limited. No legal communication privilege (psychologist-patient, doctor-patient etc.) exists between a Peer Supporter and member seeking assistance. Communication between a Peer Supporter and a member is not protected from discovery through a lawful process or directive. Such a directive shall only be issued by the Chief of Police.

Peer Supporters should not voluntarily divulge information received from a member seeking assistance from the Peer Support Program except for matters which involve the following:

- (a) Danger to self
- (b) Danger to others
- (c) Suspected elderly abuse
- (d) Suspected child abuse
- (e) Domestic violence
- (f) Narcotics offenses (sales or transportation)
- (g) The commission of a crime punishable as a felony committed by a member during the term of his/her employment with the City (on- or off-duty)
- (h) Other matter which, in the discretion of the Peer Supporter, require disclosure to the Department

Such information shall be reported to the Peer Support Program Coordinator as soon as practicable.

Peer Supporters should inform the member seeking assistance, prior to discussion, what the limitations and exceptions are regarding the information revealed. In those cases where a concern or a question regarding confidentiality arises, the Peer Supporter should contact the Program Coordinator or The Counseling Team for guidance.

Peer Supporters assisting a member who is or becomes the subject of a disciplinary investigation shall not hamper or impede an administrative investigation, nor shall they attempt to shelter a member from the Department's investigation. The Peer Supporter's role in disciplinary situations should be one of support and assisting individuals through the stress they may face during the disciplinary process. Peer Supporters with questions or concerns regarding these situations should consult with the Peer Support Program Coordinator guidance.

Fitness for Duty

1014.1 PURPOSE AND SCOPE

All officers are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

1014.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1014.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Watch Commander or employee's available Lieutenant, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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1014.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

1014.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Watch Commander or unit supervisor and concurrence of a Lieutenant, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

1014.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Personnel Department to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the

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examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

Meal Periods and Breaks

1015.1 PURPOSE AND SCOPE

This policy regarding meals and breaks insofar as possible shall conform to the policy governing all City members that has been established by the City Manager.

1015.1.1 MEAL PERIODS

Officers assigned to uniform patrol and dispatchers shall remain on-duty, subject to call during meal periods and shall monitor the radio during the meal period. Uniform patrol shall request clearance from Dispatch prior to taking a meal break. Uniformed officers are encouraged to take their meal period within the city, however outside of the city limits they shall not travel farther than Indian Hill Boulevard to the west, Foothill Boulevard to the north, Mountain Avenue to the east, and Francis Street to the south.

All other members are not on-call during meal periods unless directed otherwise by a supervisor and are required to work an additional 30 minutes to compensate for the meal period.

Members are allowed a 45-minute meal period if they leave the police facility and a 30-minute meal period if they remain in the facility. The time spent for the meal period shall not exceed the authorized time allowed.

No more than two patrol units shall be at any one eating establishment at a time.

1015.1.2 15 MINUTE BREAKS

Members working a full shift (eight or more hours) may be allowed up to two 15-minute breaks. The breaks may be taken consecutively for a period of no more than 30 minutes.

No breaks may be taken during the first or last hour of a member's shift unless approved by a supervisor.

Uniform patrol shall request clearance from Dispatch prior to taking a break. Uniform patrol will take their breaks within the city and are subject to call. They shall monitor their radios during the break. When uniform patrol takes a break away from the police vehicle, it shall only be done with the knowledge and clearance of Dispatch. No more than two patrol units shall be at any one eating establishment at a time.

Lactation Break Policy

1016.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to members desiring to express breast milk for the member's infant child (Labor Code § 1034).

1016.2 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 member desiring to express breast milk for the member's nursing infant child (29 USC § 218d; Labor Code § 1030).

1016.3 LACTATION BREAK TIME

A rest period should be permitted each time the member has the need to express breast milk (29 USC § 218d; 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 member's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Members desiring to take a lactation break shall notify Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1016.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the member'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 § 218d; Labor Code § 1031).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

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1016.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member ends her shift.

1016.5.1 STATE REQUIREMENTS

Members have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Members who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

Payroll Records

1017.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of department members who are eligible for the payment of wages.

1017.2 POLICY

The Montclair Police Department maintains timely and accurate payroll records.

1017.3 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

1017.4 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Administration as established by the City payroll procedures.

1017.5 RECORDS

The Captain shall ensure that accurate and timely payroll records are maintained by the City as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

Outside Employment

1018.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for department employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

1018.1.1 DEFINITIONS

Outside Employment - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

Outside Overtime - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

1018.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Full-time members are restricted from working at outside employment to no more than 20 hours per week. Part-time members are restricted to working a maximum of 60 hours per week between their two jobs. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the member must write a memorandum of request that includes the employer, job description, and number of hours worked weekly. The memorandum shall be submitted to the Chief of Police for approval via chain of command.

If approved, the member will be provided with a copy of the approved memorandum. Unless otherwise indicated on the approved memorandum, the approval shall be valid for one year.

Any officer seeking approval of outside employment whose request has been denied shall be provided with a written reason, at the time of the denial (Penal Code § 70(e)(3)).

1018.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If a member's request for outside employment is denied or withdrawn by the Department, the member may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

If the member's appeal is denied, the member may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

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1018.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment authorization may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his or her discretion, revoke any previously approved outside employment authorization. The revocation will stand until the member's performance improves to a satisfactory level and his/her supervisor recommends reinstatement of the outside employment authorization.
- (b) Suspension or revocation of a previously approved outside employment authorization may be included as a term or condition of sustained discipline.
- (c) If, at any time during an employee's outside employment, the employee's conduct or outside employment conflicts with the provisions of department policy, the authorization may be suspended or revoked.
- (d) When an employee is unable to perform at a full-duty capacity due to an injury or other condition, any previously approved outside employment may be subject to similar restrictions as those applicable to the member's full time duties until the member has returned to a full-duty status.

1018.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny a request for outside employment submitted by a member seeking to engage in any activity which:

- (a) Involves the member's use of departmental time, facilities, equipment, or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the member's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the member, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the member's duties as a member of this department
- (c) Involves the performance of an act in other than the member's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other member of this department
- (d) Involves time demands that would render performance of the member's duties for this department less efficient

Members are prohibited from employment in certain occupations where conflicts of interest, philosophy, or propriety might arise. Examples of such conflict of interest or potential liability exposure for full-time, sworn members include, but are not limited to:

- (a) Security guard

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Outside Employment

- (b) Private investigator within the County of San Bernardino or the counties adjacent to San Bernardino County
- (c) Bouncer
- (d) Bodyguard
- (e) Bartender within this city
- (f) Firearm dealership within this city
- (g) Process server
- (h) Repossessor
- (i) Debt collector
- (j) Legal practice of criminal defense
- (k) Funeral escort where traffic control or the wearing of a uniform which resembles that of a peace officer is required

For all other members, a conflict of interest would exist when the above employment occurs within the City of Montclair or may exist under other circumstances after examining the exact nature of the outside employment in context with the member's departmental responsibilities.

1018.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
 - 1. The officer(s) shall wear the department uniform/identification.
 - 2. The officer(s) shall be subject to the rules and regulations of this department.
 - 3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.

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4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
5. Outside security services shall not be subject to the collective bargaining process.
6. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

1018.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1018.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Chief of Police, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.

1018.4 DEPARTMENT RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

1018.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If a member terminates his/her outside employment during the period authorized, the member shall promptly submit written notification of such termination to the Chief of Police through the chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through the procedures set forth in this policy.

Members shall also promptly submit in writing to the Chief of Police via chain of command any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Members who are uncertain whether a change in outside employment is material should report the change.

Personal Appearance Standards

1019.1 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.

1019.2 RATIONALE FOR POLICY

This department requires certain uniformity in dress and grooming standards of its members. The purpose of such policies are, in part, to make members readily recognizable to the public, promote esprit de corps among members, promote efficient department operations, and enhance personnel safety. These fundamental policy decisions are no less applicable to the issue of members displaying tattoos.

It is important that members of this department realize that presenting a professional appearance to the public is vital to the success of carrying out the mission to protect, serve, and enforce the laws of the community. This department has a rational belief that allowing its members to wear different styles of uniforms (or no uniforms at all), to be groomed with significantly different lengths of hair, uniquely colored hair, and the like would have a negative impact upon not only internal esprit de corps, but upon the building of a positive bond with the community.

The legal basis for this policy is the United States Supreme Court case of *Kelley v. Johnson* (1976) 425 U.S. 238, which empowers police departments to make rules and regulations affecting uniformity and esprit de corps, so long as there is a rational justification for the policy. The High Court stated at 425 U.S. 247:

"Choice of organization, dress, and equipment for law enforcement personnel is a decision entitled to the same sort of presumption of legislative validity as are state choices designed to promote other aims within the cognizance of the State's policy power."

1019.3 TATTOOS

The Chief of Police or his/her designee may authorize a Standard or Alternative Tattoo/Branding/Body Art Policy as it relates to tattoos, branding and body art. Furthermore, the Chief of Police or his/her designee may rescind all parts of the Alternative Tattoo/Branding/Body Art Policy at any time, at which time the Standard Tattoo/Branding/Body Art Policy will be reinstated. The Chief of Police or his/her designee may require any member to conceal tattoos, branding, and/or body art whether or not the member's duties include physical interaction with the public.

Standard Tattoo/Body Art Policy:

Except as otherwise provided for herein, while on-duty or representing the Montclair Police Department in any official capacity, members who have any physical interaction with the public shall make every reasonable effort to conceal tattoos, brandings or other body art. At no time while the member is on-duty or representing the Department in any official capacity shall any prohibited tattoo, branding or body art described in this policy be visible.

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Members who have no physical interaction with the public in their job duties are exempt from the requirement to conceal tattoos, brandings or body art. However, this exemption may be rescinded by the Chief of Police for any reason. If rescinded, exempt employees will need to conceal tattoos, brandings or body art as explained in the paragraph above. Members shall not obtain tattoos, brandings or body art in a manner in which they are unable to conceal or be in compliance should this exemption be rescinded. Members exempt due to their job duties may still be required to conceal tattoos, brandings or body art if working a special detail/assignment which requires interaction with the public (i.e. open house, social media posts, recruitment, Department photograph, checkpoint, etc.) Permission for exemption in those circumstances shall require authorization from a supervisor.

Alternative Tattoo/Body Art Policy:

While on-duty or representing the Montclair Police Department in any official capacity, members may have or display tattoos, brandings and/or body art, with the following exceptions which shall be prohibited at all times; provided, however, this list of exceptions may be revised or added to from time-to-time:

- Tattoos, brandings and/or body art depicting extremist, indecent, political, racist, or sexist themes, including tattoos, brandings and/or body art that denigrate "protected classes" as defined under California law.
- Tattoos, brandings and/or body art depicting symbols or markings likely to elicit a strong negative reaction in the workplace or with the public that are inconsistent with the Montclair Police Department's values or community relations objectives, including but not limited to symbols or markings that promote or are associated with violence
- Tattoos, brandings and/or body art depicting symbols contrary to the purpose of law enforcement, including but not limited to depictions symbolizing or indicative of alcohol or narcotics, illegal or gang-related activity, or symbols suggestive of activity that undermines the purpose of law enforcement.
- Tattoos, brandings and/or body art depicting illustrations, references, symbols, acronyms, or the like that denigrate any person, country, state, political subdivision, governmental agency including the Montclair Police Department, or commercial, private, or nonprofit enterprise.
- Any tattoos, brandings and/or body art on any part of the hands, neck, face, head, ears, eyelids, and mouth.
- Department personnel appearing in court on official duty, in or out of uniform, shall not display any tattoos, brandings and/or body art during their appearance in the courtroom or during testimony, whether or not the Alternative Tattoo/Branding/Body Art Policy is in effect.

All members are prohibited from having tattoos, brandings and/or body art on any part of the hands, neck, face, head, eyelids, mouth, scalp and ears with the following exceptions:

- Tattoo of a wedding band on the ring finger—the fourth digit of the human hand, located between the middle finger and the little finger.

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- Permanent facial make-up on the eyebrows, eyelid (including the water line and upper and lower eyelid), and lips, the application of which shall be conservative in both style and color.
- Microinked tattoos for facial hair and/or head (scalp) hair follicle simulation, including beard shadow and hair shadow, may be pre-approved on a case-by-case basis.

Members shall seek approval on the feasibility of concealing a hand and/or neck tattoos, brandings and/or body art on the hands, neck, head, face, ears, eyelids, mouth and/or scalp with flesh-colored bandages, wraps, or make-up. The Montclair Police Department reserves the right to require employees to conceal their tattoos, brandings and/or body art if deemed necessary to comport with evolving standards, a special detail or assignment, or at the discretion of a supervisor or the Chief of Police. This policy and its exceptions do not grant permanent approval to display any tattoos, brandings and/or body art subsequently deemed unacceptable for display, and employees may be required by the Chief of Police or his/her designee to cover them at any time. The Chief of Police or his/her designee may amend what specialized assignments are prohibited under this policy.

1019.3.1 DEFINITIONS

Brand/Branding - a picture, design, or other marking that is burned into the skin or other areas of the body. Body markings are pictures, designs, or other markings as a result of using means other than burning to permanently scar or mark the skin. For purposes of this policy, tattoo shall be inclusive of brand as defined herein.

Extremist - extremist tattoos, brandings and/or body art are those affiliated with, depicting or symbolizing extremist philosophies, organizations, or activities; or those which advocate violence or other unlawful means depriving individuals of rights inferred in the U.S. Constitution, or by Federal or State Law. Extremist philosophies, organizations, and activities are those which advocate hatred or intolerance against individuals or protected classes as defined by Federal and/or State Law, including those protected classes defined and enumerated in, and as may be amended by, The Fair Employment and Housing Act, including the following:

- race
- religion
- color
- national origin
- ancestry
- physical disability
- mental disability
- medical condition
- genetic information
- marital status

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- sex
- gender
- gender identity
- gender expression
- age (age discrimination is discriminating against someone 40 or older)
- sexual orientation
- military and veteran status

Indecent - indecent tattoos, brandings and/or body art are those that depict nudity or are offensive to modesty, decency, propriety, or professionalism.

Political - political tattoos, brandings and/or body art are those that relate to the symbols, causes, ideas, or strategies of a particular party or group in politics, including special interest groups.

Racist - racist tattoos, brandings and/or body art are those that advocate a philosophy that degrades or demeans a person or group of people based on race, ethnicity, or national origin.

Sexist - sexist tattoos, brandings and/or body art are those that advocate a philosophy that degrades or demeans a person or group of people based on gender.

Tattoo / Body Art - tattoo/body art are pictures, designs, markings or a combination thereof made on the skin or other areas of the body by staining with an indelible dye, or by any other methods and shall include pictures, designs, or markings only detectable or visible under certain conditions such as by an ultraviolet light or by use of invisible ink tattoo. The term tattoo and body art are interchangeable. For purposes of this policy, tattoo shall be inclusive of brand as defined herein.

1019.3.2 AUTHORIZATION FOR VISIBLE TATTOOS / BODY ART

Current members are encouraged to submit designs for new tattoos, brandings and/or body art to their supervisor when there is doubt about compliance with provisions of this policy. The Chief of Police or his/her designee shall make the final determination as to whether any tattoo(s), branding(s) and/or body art conform to this policy.

1019.3.3 POLICY COMPLIANCE

This department acknowledges that one or more individuals employed prior to the adoption of this policy may have pre-existing tattoos, brandings and/or body art. Such individuals are, nonetheless, fully subject to this policy. Any tattoo, brandings and/or body art pre-existing this policy must and shall be in compliance with the requirements of this policy. The Department's lack of knowledge of the pre-existence of any member's tattoo(s), branding(s) and/or body art does not represent permission to continue the wearing of such tattoo(s), branding(s) and/or body art; however, any member who refuses to comply with a policy of removing prohibited tattoo(s), branding(s) and/or body art will not be permitted to show any such tattoo(s), branding(s) or body art at any time. Compliance can be effectuated by means of:

- (a) Removal of the tattoo(s), branding(s) and/or body art.

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- (b) The wearing of a department-approved uniform in a department-approved manner so that the tattoo(s), branding(s) and/or body art is/are not visible during the performance of duties in the course and scope of employment.
- (c) The wearing of a department approved unobtrusive device that covers the tattoo(s), branding(s) and/or body art, such as, but not limited to, the use of make-up or a bandage that does not impede the safe and efficient performance of duties.
- (d) Requesting that the Chief of Police grant an exemption for any existing tattoo(s), branding(s) and/or body art/body piercings. Such requests shall be made in writing to the Chief of Police through the chain of command. The memorandum shall describe the tattoo and its location on the member's body. A color photograph(s) of the body art/body piercing in question shall accompany the memorandum. The memorandum and photograph(s) shall be retained in the member's personnel file. The purpose is to ensure no further tattoos are added after an exemption is granted. The deadline to request an exemption shall be 30-day after the policy effective date.

1019.4 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. However, in regards to tattoos, brandings, body art and/or other body markings, the markings must be in good taste. In addition, the Chief of Police shall have final decision on what is, or is/are not appropriate exceptions to the department's personal appearance standards.

1019.4.1 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.

No artwork, design lines or haircut designs of any kind shall be shaved, trimmed or otherwise incorporated into scalp or facial hair.

1019.4.2 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.

1019.4.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1019.4.4 FACIAL HAIR

Facial hair other than sideburns, mustaches, eyelashes and eyebrows shall not be worn, unless authorized by the Chief of Police or his or her designee.

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No artwork, design lines or haircut designs of any kind shall be shaved, trimmed or otherwise incorporated into the scalp or facial hair.

The Chief of Police or his/her designee may authorize an alternate grooming standard as it pertains to facial hair. This grooming standard may allow for beards or goatees, with or without a connected mustache.

All facial hair permitted under any alternate grooming standard authorized by the Chief of Police shall, at all times, be groomed and trimmed at the neckline, and no artwork, design lines or haircut designs of any kind shall be shaved, trimmed or otherwise incorporated into facial or scalp hair. The Chief of Police or his/her designee may rescind the alternative grooming standard at any time, at which time the previous standard will apply pertaining to facial hair and mustaches.

1019.4.5 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.

1019.4.6 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 or otherwise denigrates protective classes as defined under California law is not allowed. Following are acceptable standards for the wearing of jewelry by members:

- (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.

1019.5 BODY PIERCING OR ALTERATION

For purposes of this policy, body piercing and body modification are the practice of puncturing or cutting a part of the human body, creating an opening in which jewelry or body adornment may be worn, or where an implant could be inserted to alter the body and/or skin/muscular profile and/or appearance without medical cause or purpose. Any Body piercing or body modification/alteration to any area of the body visible to the public or any member of the Department while on duty, whether in any City-authorized uniform or personal attire, that is or represents a deviation from,

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or modification to, normal anatomical features and represents a deviation from societal norms, and which is not medically required is prohibited. Such body piercing, body modification/alteration, body adornment 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 or modification of, or piercings or adornments to, the ears, ear lobes, eyes, eyelids, eyebrows, chin, cheeks, forehead, nose, teeth, mouth, hands, fingers or any exposed part of the body.
- (d) Branding or scarification which is not permitted in this policy

1019.6 STANDARD OF DRESS

As a government agency, it is important that the Montclair Police Department maintain a professional business image. In order to ensure that a professional image of the Department is maintained, members are required to dress appropriately and in accordance with contemporary business standards while on-duty. Members authorized to wear business attire shall not wear clothing demonstrating the same markings prohibited/defined in the Standard or Alternative Tattoo/Branding/Body Art policies. Also prohibited are clothing which displays corporate logos (other than subtle clothing brand logos) other than those authorized and/or provided by the City of Montclair.

1019.7 MAKEUP

Members may wear makeup; however the wearing and application of makeup shall be conservative in style, color, and in the manner worn.

1019.8 EXEMPTIONS

Members who seek religious, spiritual, cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). The Chief of Police or his/her designee may approve requests for exemption contrary to provisions of this policy when a member submits satisfactory and acceptable evidence of religious, spiritual or cultural reason or purpose. A member submitting for, and receiving an exemption may be ineligible for an assignment if the accommodation presents a security or safety risk. The Chief of Police shall be advised any time a request for such an accommodation is denied or when a member granted a religious, spiritual, cultural or other exemption is denied an assignment based on a safety or security risk.

Equipment and Uniforms

1020.1 PURPOSE AND SCOPE

Members shall maintain the facility, lockers, desks, and other equipment used by them in a neat, clean, and orderly condition.

Members shall maintain their work clothing and equipment in serviceable condition. Work clothing shall be clean, pressed, and not noticeably patched, torn, or worn. Members shall maintain their personal hygiene and appearance commensurate with professional standards. Leather equipment and badges shall be maintained in good working condition.

After a member's initial complement of uniforms is worn out, the described items of uniform will be reissued or supplied to members by the Department on an as needed basis, when requested via memorandum to a supervisor.

Members shall not make uniform or equipment purchases in the name of the Department without prior approval from a supervisor. Claims for reimbursement of out-of-pocket expenses shall be submitted in a timely manner through the appropriate chain of command.

In the event individual members of this department believe it necessary to have additional items of uniform equipment, including alternative duty belts, and accessories, they may purchase them at their own expense. Equipment issued by this department is property of the Department and is to be returned upon leaving employment.

1020.2 WEARING AND MAINTAINING UNIFORM

All members, unless otherwise designated by the Chief of Police or a staff member, shall wear the authorized uniform of the Department.

1020.2.1 REPLACEMENT OF UNIFORMS AND EQUIPMENT

Members who have clothing or equipment damaged while on-duty shall report such damage to their supervisor. A memorandum is required to report damage. A Vehicle Damage Memorandum form should be used to report vehicle damage. These forms may be obtained from the Watch Commander.

The following procedures are to be followed when requesting and purchasing uniforms and equipment:

Members needing to request uniforms and/or equipment shall submit a memorandum requesting the specific item(s) to their supervisor. Following written supervisor approval on the memorandum, the original approved memorandum shall be returned to the member and a copy provided to the Administrative Analyst for tracking and billing purposes. The member may then order the equipment through an authorized vendor. The authorization memorandum must be presented to the uniform supply store at the time of purchase or order. The uniform stores have been directed to deny any purchase request made without an authorization memorandum.

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The City will pay up to \$125 (including tax) toward the purchase of uniform boots or approved alternate footwear for uniformed members. If a member's purchase exceeds \$125 and is charged to the City, the member must pay the difference at the time of purchase. If a member pays full cost at the time of purchase, the member may submit a receipt to the Administrative Analyst for reimbursement up to \$125.

A copy of the memorandum authorizing a uniform or equipment purchase and all receipts for such shall be given to the administrative analyst.

1020.2.2 REPORT OF LOST OR STOLEN UNIFORM OR EQUIPMENT

Members shall promptly report lost or stolen uniforms or equipment to their supervisor. A memorandum is required to report lost or stolen uniforms or equipment. In addition, the lost or stolen property shall be reported to the law enforcement agency having jurisdiction at the location of the incident. Whenever possible, brand, model, and serial number information shall be provided at the time the police report is made. If that information is not known at the time the report is made, the reporting member shall attempt to obtain the brand, model, and serial number of the property and subsequently provide it to the law enforcement agency that took the lost or stolen property report. The crime report number issued by the reporting law enforcement agency shall be included on the memorandum reporting the lost or stolen property.

Members shall promptly notify the Department, in writing, in the event the lost or stolen property is found or recovered.

1020.2.3 WEARING UNIFORM

Members are not required to change into their uniform at the station. They have the option of donning and doffing at their home or at the station.

Members, while on-duty, shall not wear any uniforms or portions thereof which do not conform to the specifications set herein, nor shall any member wear civilian clothes on-duty in conjunction with the uniform, unless given permission to do so by a supervisor. Members on-duty shall not carry any equipment which does not conform with department specifications or have department authorization.

Class C uniforms should not be worn by probationary officers, unless authorized by a supervisor for a special detail, assignment, etc.

Members wearing any portion of the police uniform bearing uniform shoulder patches or a badge while in-transit to or from work or otherwise off-duty in their own personal vehicle shall ensure the portion of the uniform bearing the patches or badge is covered by a jacket, sweater, or other article of clothing so as to cover the patch or badge from public view.

1020.2.4 UNIFORM CLASS TYPES

Officers shall not wear Class A or B pants with a Class C shirt

- (a) Class A Uniform
 - Uniform Pants

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- Long-sleeved shirt
 - Tie
 - All other uniform accessories
 - Class A style boots and basket weave duty gear
- (b) Class B Uniform
- Uniform pants
 - Long or short-sleeved shirt
 - All other uniform accessories
- (c) Class C Uniform
- Alternate uniform pants (BDU)
 - Alternate uniform shirt (polo shirt)
 - All other uniform accessories

1020.3 UNIFORM AND EQUIPMENT ALLOTMENTS

The following uniforms and equipment are allotted to Police Department members:

1020.3.1 IDENTIFICATION CARD

A Montclair Police Department identification card shall be issued to each member of the Department. Field personnel and detectives shall carry their department issued identification cards with them while on-duty. All other members shall have their identification cards readily available when on-duty.

Identification cards shall expire three years from the date of issuance and shall be reissued to current personnel.

Identification cards issued to retired peace officers do not expire. The identification card remains property of the City. The identification card may be revoked and shall be surrendered to the Department upon request.

1020.3.2 ISSUED AND AUTHORIZED OPTIONAL UNIFORMS AND EQUIPMENT

	Officer	Reserve	Cadet
	Issued/Optional	Issued/Optional	Issued/Optional
Badge	Issued	Issued	Issued
ID card	Issued	Issued	Issued
Metal name badge	Issued	Issued	Issued
Station Key	Optional	Optional	Optional
Uniform locker/key	Issued	Issued	Issued
Duty bag locker/key	Issued	Issued	
Short sleeve uniform shirt	Issued (2)	Issued (2)	Issued (2)

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Long sleeve uniform shirt	Issued (2)	Issued (2)	Issued (1)
Uniform pants	Issued (2)	Issued (2)	Issued (2)
Uniform belt	Issued	Issued	Issued
Tie	Issued	Issued	Issued
Tie bar	Issued	Issued	Issued
Hat	Issued	Issued	
Hat piece	Issued	Issued	
Cap	Issued	Issued	Issued
Jacket	Issued	Issued	Issued
Rain coat	Optional	Optional	Optional
Rain boots	Optional	Optional	Optional
Sam Browne belt	Issued	Issued	Issued
Ballistic vest	Issued	Issued	
Handgun	Issued	Issued	
Gun vault	Issued	Issued	
Handgun holster	Issued	Issued	
Magazines	Issued (3)	Issued (3)	
Magazine case	Issued	Issued	
Belt keepers	Issued (4)	Issued (4)	Issued (4)
Handcuffs	Issued (2)	Issued (2)	
Handcuff case	Issued (2)	Issued (2)	
Knife	Issued	Issued	Optional
OC canister	Issued	Issued	Optional
OC case	Issued	Issued	Optional
ASP	Issued	Issued	
ASP holder	Issued	Issued	
Wood baton	Issued	Issued	
Baton ring	Issued	Issued	
HT radio & case	Issued	Issued	Optional
Flashlight	Issued	Issued	Optional
Digital recorder	Issued	Issued	
Digital recorder case	Issued	Issued	
Taser and holster	Issued	Issued	
Ballistic helmet w/face shield	Issued	Issued	
Helmet bag	Issued	Issued	
Gas mask and case	Issued	Issued	

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CPR mask holder	Optional	Optional	Optional
Key holder	Issued	Issued	Issued
Black mourning band	Issued	Issued	Optional
Traffic safety vest	Issued	Issued	Issued
	Dispatch	Records	Chaplain
	Issued/Optional	Issued/Optional	Issued/Optional
Badge	Issued	Issued	Issued
ID card	Issued	Issued	Issued
Metal name badge	Issued	Issued	Issued
Locker w/key	Issued	Issued	Issued
Short sleeve uniform shirt	Issued (2)	Issued (2)	Issued (2)
Long sleeve uniform shirt	Issued (1)	Issued (1)	Issued (1)
Uniform pants	Issued	Issued	Issued (1)
Uniform belt	Issued	Issued	Issued
Tie	Issued	Issued	Issued
Tie bar	Issued	Issued	Issued
Hat			
Hat piece			
Cap			Issued
Jacket	Issued/Optional	Issued/Optional	Issued
Sweater	Issued/Optional	Issued/Optional	
Ike jacket			
Rain coat			Optional
Rain boots			Optional
Sam Browne belt			Issued
Ballistic vest			
Handgun			
Gun vault			
Handgun holster			
Magazines (3)			
Magazine case			
Belt keepers (4)			Issued
Handcuffs			
Handcuff case			
Knife			
OC canister			Optional
OC case			Optional

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ASP			
ASP holder			
Wood baton			
Baton ring			
HT radio case			Issued
Digital recorder			
Digital recorder case			
Taser and holder			
Ballistic helmet w/face shield			
Helmet bag			
Gas mask and case			
CPR mask holder			
Key holder			Issued
Black mourning band			

1020.4 AUTHORIZED UNIFORM AND SAFETY EQUIPMENT FOR SWORN PERSONNEL

The following items are authorized uniform and safety equipment for sworn personnel.

Awards & Pins - Awards and pins may be worn on the uniform as approved by the Chief of Police. These shall be limited to that number presenting a neat appearance on or above the right breast pocket flap, except the flag pin which must be worn on the left breast pocket flap. No more than one of the same type of pin shall be displayed.

Baton - The department-issued baton is an ASP 26-inch baton. Optional equipment is the standard 26-inch or 29-inch straight wood baton. Uniform patrol officers shall carry a baton. Officers shall not carry a PR-24 baton, except that Mobile Field Force officers may carry a PR-24 baton while deployed in that capacity.

Baton Ring/Holder - Shall be worn by all members

Body Armor/Protective Vest - The Department shall issue ballistic vests to sworn, full-time members in accordance with the Body Armor policy. Issued equipment must meet adopted standards listed below. Equipment will be replaced when it is deemed no longer serviceable by the Department. Ballistic vests generally are replaced on a five-year life cycle, depending on conditions of usage. The ballistic vest shall meet the following specifications:

- (a) Front and back ballistic protection
- (b) Ballistic panel threat level II or greater (National Institute of Justice)
- (c) Kevlar 29, 129, multi-Kevlar material or Kevlar/Hybrid (Spectra-Shield) material, meeting all applicable National Institute of Justice standards.

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- (d) The manufacturer must provide proof of adequate product liability insurance or proof of financial responsibility. The approved options include side panel ballistic protection and a center chest trauma plate, five-inch by eight-inch.
- (e) Approved options:
 - 1. Side panel ballistic protections
 - 2. Center chest trauma plate, five-inch by eight-inch

Any piece of equipment a member believes is defective should be brought to a supervisor's attention who will take appropriate corrective measures. Sworn members who desire to purchase their own vest may do so provided that it meets department standards. A member may receive up to \$950 towards the vest purchase, provided the member agrees that the vest will become the property of the Department after purchase.

Body armor shall be worn per the requirements and exceptions set forth in the Body Armor policy.

Buttons - All shirt buttons shall be compatible with the color of the shirt.

Caps - Baseball style caps as approved by the Chief of Police. Department approved beanies may be worn per the direction of the Chief of Police.

Chemical Agents - Chemical agents (e.g., OC/mace spray) will be issued to members as deemed necessary by the Chief of Police. The units are contained within a leather case and shall be worn in the case on the member's gun belt or belt. Patrol officers shall carry either a Taser or OC spray, but shall have the other available in his/her patrol bag or police vehicle.

Chemical Agent Case - Black, leather, basket weave, open or closed style with hidden snaps, or black, nylon oleoresin capsicum (OC) holder

Cloth Badge/Name Tag - Issued cloth badges and name tags are required on all duty jackets, but shall not negate the requirements for the metallic badge and a name tag to be worn on the uniform shirt. Name tags are to be worn by uniformed officers and other uniformed field personnel. Cloth badges are purchased by the City and are department property. In order to prevent their misuse, illegal representation, or embarrassment to the Department, they shall not be given away or be available for purchase. Written requests for cloth badges shall be forwarded to the Administrative Specialist who will respond with a letter of denial.

Duty Jacket - Police jacket of light or medium weight, of a color approved by the Department. A cloth name tag and badge shall be required for all duty jackets if the member's police badge is not visible. Services stripes are not to be worn on the duty jacket.

Firearm - Refer to the Firearms policy firearm specifications and requirements for carrying

Flashlight - A department-issued flashlight

Flashlight (Optional) - Compact auxiliary flashlights may be carried by members at their expense. These flashlights shall be black in color and are supplementary to, and do not replace, a standard flashlight.

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Footwear - Footwear worn with the uniform shall be black in color, smooth finished, plain with polishable toe, with no decorative stitching or design. For non-Class A uniforms, alternate uniform boots (tactical style with nylon or similar materials), black in color, or work-type footwear may be worn if similar in styling to traditional police footwear, and are free from significant embellishments or markings not commensurate with police footwear. Expressly prohibited are pointed-style or steel-toe boots.

Gloves - Inclement weather gloves shall be black and should only be worn with a long sleeve uniform shirt or jacket and shall not impair the use of assigned police equipment. The wearing of gloves other than those required by the nature of a special assignment (e.g., reflective gloves for traffic control, white gloves for dress occasions, parades, motorcycle operation) or for inclement weather conditions is prohibited. Appropriate protective gloves (e.g., latex gloves) may be worn when engaged in a hazardous situation or in handling hazardous materials. Tactical gloves may be worn in tactical situations.

Handcuffs - Silver (chrome) or black

Handcuff Case - Black, leather basket weave, closed or open top, or black nylon, Kydex, or similar material covered or open top. If closed-top style, snaps shall be hidden. Open top cases shall have significant retention.

Hats - Navy blue, regulation police round cap with black visor, soft top with approved hat band. A hat piece is required to be attached to the hat. The hat may be worn with a Class A uniform or in inclement weather.

Helmet - Police protective helmet of approved design and color as supplied by the Department. This shall be carried by the officer in the vehicle when working a field assignment.

High-Visibility Vests - One high-visibility vest will be issued to each member exposed to traffic hazards. Members shall have their high-visibility vest available whenever working a field assignment. These vests shall be utilized per the High-visibility Vests policy.

Holster - Black, leather, basket weave or black, nylon Bianchi holster, or other approved by the Chief of Police. Plain clothes holsters carried by officers in plain clothes assignments shall have a strap securing the weapon inside the holster. Shoulder holsters are authorized for plain clothes assignments, however the firearm may not be carried in a holster where the firearm is carried upside down.

Key Ring - Shall be optional on the part of the wearer, but if worn, shall contain a minimum of keys and other equipment

Knives -(Utility): This section applies to sworn personnel and reserve officers only. A folding utility knife may be carried primarily as a cutting tool for members to use to perform emergency rescue, suicide intervention, utility cutting chores, and other miscellaneous uses. The knife shall measure no more than nine inches in length (including blade and handle) when fully extended. The knife shall be carried in a closed position in a sheath attached to the member's duty belt or securely clipped to the employee's uniform using the knife's clip. Fixed blade knives, knives with

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spring-loaded or gravity blades, boot knives, dual edge knives or knives designed and intended to primarily be stabbing weapons are not authorized for use.

Magazine Case - Black, leather basket weave, closed or open top, or black nylon, Kydex, or similar material covered or open top. If closed-top style, snaps shall be hidden. Open top cases shall have significant retention.

Miscellaneous Equipment - Additional equipment carried on the belt shall be approved by the Chief of Police prior to wearing/using the equipment.

Motorcycle Uniform - Consists of a jacket, regular uniform badge and metal name tag, heavy-weight breeches, stripe may be required on the outside leg seams; and leather motorcycle boots with full lower leg protection. Alternative Class "C" uniforms are also approved. Members who operate a motorcycle shall wear safety glasses during the operation of the equipment.

Mourning Band - The band shall be no more than one-inch in width, black cloth, rubber, or elastic, fitted around the badge so as to not cover the badge number. The Department authorizes the wearing of a mourning band under the following conditions:

- (a) The period of mourning shall be from the death of the officer until the day after the funeral at 0001 hours.
- (b) Written authorization for the wearing of the band shall be from a supervisor.
- (c) The wearing of the band is optional and shall be a matter of personal choice once authorized.
- (d) The supervisor or staff officer authorizing same shall, as soon as possible, place (or cause to be placed) written information concerning the authorization into the turnover book.
- (e) Criteria for authorization: The mourning band is intended to recognize all California law enforcement officers who face similar hazards and to provide an outlet for members to express their grief and concern for the loss of a California peace officer. Authorization should follow whenever a California peace officer loses his/her life while performing peace officer duties in a lawful manner, or whenever it is deemed appropriate by the Chief of Police. Officers are authorized to wear a mourning band on every September 11th in remembrance of those law enforcement officers killed during the September 11, 2001 attack on the United States.

Other Equipment Required - Watch, notebook, pen or pencil. Pens and mechanical pencils shall be black or silver in color. Only .07 B or HB pencil lead shall be used in mechanical pencils. Only pencil or black ink shall be used in completing forms and writing police reports, citations, alarm cards, and field interview cards. Blue ink may be used to sign documents.

Patches - Shoulder insignia patches are provided by the Department and shall be worn on the shoulder of each sleeve. They shall be attached by means of stitching which is not obvious to view or decorative. Patches are purchased by the City and are department property. In order to prevent their misuse, illegal representation, or embarrassment to the Department, they shall not be given away or be available for purchase without authorization from the Chief of Police.

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Rain Clothing - Rain coats and boots are available to members engaged in field activities. Optional hat covers shall be clear plastic.

Rank Insignia- Peace officer members in the rank of Sergeant, Lieutenant, Captain, and Chief shall wear the following rank insignia:

Chief - Four stars

Captain- Two bars

Lieutenant - One bar

Sergeant - Three chevrons

Sam Browne Belt / Alternate Duty Belt - . Sam Browne Belt is to be black in color, leather basket weave or nylon style, and secured by matching belt keepers with hidden snaps. Alternate black duty belts of nylon or similar style may be worn, and shall contain adequate retention to the body. All belt hardware including buckles shall be black in color.

Service Stripes - Shall be worn on the left shirt sleeve. Members are eligible to wear service stripes at the rate of one stripe for each five years of service completed. Service stripes may be worn by both full-time and reserve peace officers. For purposes of calculating accumulated service time, only time served as a full-time California peace officer or as a Montclair Police Department reserve peace officer will be considered eligible service time. Reserve officer time and full-time peace officer time cannot be combined for purposes of calculating accumulated service time.

Socks - When visible, socks worn with the uniform shall be black or navy blue with no design or decoration. They shall be crew length so that the ankles are covered. Ankle socks or bootie socks are not authorized.

Special Assignment Symbols - Members assigned to the Field Training Officer (FTO) Program may wear the single chevron with star on the Class A, Class B, or Class C uniform only. Motor officers may wear a cloth "flying wheel" symbol on each sleeve.

Taser - Patrol officers shall carry either a Taser or OC spray, but shall have the other available in his/her patrol bag or police vehicle. The taser shall be carried on the side opposite of the officer's handgun.

Taser Holster - A black nylon holster. An optional plastic taser holster may be purchased at the officer's expense.

Tie - A regulation tie, black in color, with a break-away or snap, accompanied with a department-approved tie bar. The tie shall reach at least to the top of the member's duty belt, but shall not extend not below the member's duty belt.

Uniform Shirt -Regulation police uniform shirt, navy blue, short or long sleeve, wool or polyester. An alternate uniform polo shirt in the current department-approved style (black with white "POLICE" lettering across the back) may be worn with black BDU uniform pants. The alternate

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uniform shirt shall have a cloth badge. The alternate uniform shirt shall have a cloth name tag with white lettering.

Uniform Trousers/Pants - Regulation police trousers, navy blue, wool, polyester, or blend. Alternate uniform BDU pants, black in color, may be worn with the current approved style and color alternate uniform polo shirt.

Uniform Badge - Officers will be issued a uniform and a flat badge. Officers shall not trade or lend their badge to another officer.

Undershirt - A white or black crew neck undershirt shall be worn under the uniform shirt.

1020.5 AUTHORIZED UNIFORM FOR NON-SWORN PERSONNEL

The following items are authorized uniform and safety equipment for uniformed non-sworn personnel.

1020.5.1 POLICE CADETS

Buttons - All shirt buttons shall be compatible with the color of the shirt.

Caps - Baseball style caps, as approved by the Chief of Police.

Cloth Badge/Name Tag - Issued cloth badges and name tags are required on all duty jackets, but shall not negate the requirements for the metallic badge and a name tag to be worn on the uniform shirt. Name tags are to be worn by uniformed officers and other uniformed field personnel. Cloth badges are purchased by the City and are department property. In order to prevent their misuse, illegal representation, or embarrassment to the Department, they shall not be given away or be available for purchase.

Duty Jacket - Police jacket of light or medium weight, of a color approved by the Department. A cloth name tag and badge shall be required for all duty jackets if the member's police badge is not visible.

Footwear - Footwear worn with the uniform shall be black in color, smooth finished, plain with polishable toe, with no decorative stitching or design. For non-Class A uniforms, alternate uniform Uniform boots (tactical style with nylon or similar materials), black in color, or work-type footwear may be worn if similar in styling to traditional police footwear, and are free from significant embellishments or markings not commensurate with police footwear. Expressly prohibited are pointed-style or steel-toe boots.

Gloves - Inclement weather gloves shall be black and should only be worn with long sleeve uniform shirts.

High-Visibility Vests - One high-visibility vest will be issued to each member exposed to traffic hazards. Members shall have their high-visibility vest available whenever working a field assignment. These vests shall be utilized per the High-visibility Vests policy.

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Mourning Band - The band shall be no more than one-inch in width, black cloth, rubber, or elastic, fitted around the badge so as to not cover the badge number. The Department authorizes the wearing of a mourning ribbon as follows:

- The period of mourning shall be from the death of the officer until the day after the funeral.
- Authorization for the wearing of the band shall be from a supervisor.
- The wearing of the band is optional and shall be a matter of personal choice once authorized.
- The supervisor or staff officer authorizing the wearing of mourning bands shall, as soon as possible, place (or cause to be placed) written information concerning the authorization into the turnover books.
- Criteria for authorization - The mourning band is intended to recognize all California law enforcement officers face similar hazards and to provide an outlet for members to express their grief and concern for the loss of a California peace officer. Authorization should follow whenever a California peace officer loses his/her life while performing peace officer duties in a lawful manner or whenever it is deemed appropriate by the Chief of Police. Members are authorized to wear a mourning band on every September 11th in honor of those law enforcement officers killed during the September 11, 2001 attack on the United States.

Patches - Shoulder insignia patches are provided by the Department and shall be worn on the shoulder of each sleeve. They shall be attached by means of stitching which is not obvious to view or decorative. Patches are to be worn by uniformed officers and other uniformed field personnel. Patches are purchased by the City and are department property. In order to prevent their misuse, illegal representation, or embarrassment to the Department, they shall not be given away or be available for purchase without approval from the Chief of Police.

Pins - Awards and pins may be worn on the uniform as approved by the Chief of Police. These shall be limited to that number presenting a neat appearance on or above the right breast pocket flap, except the flag pin which must be worn on the left breast pocket flap. No more than one of the same type of pin shall be displayed.

Rain Clothing - Rain coats and boots are available to members engaged in field activities. Optional hat covers shall be clear plastic.

Sam Browne Belt / Alternative Duty Belt - Sam Browne Belt is to be black in color, leather basket weave or nylon style, and secured by matching belt keepers with hidden snaps. Alternate black duty belts of nylon or similar style may be worn, and shall contain adequate retention to the body. All belt hardware including buckles shall be black in color.

Socks - When visible, socks worn with the uniform shall be black or navy blue with no design or decoration. They shall be crew length so that the ankles are covered. Ankle socks or bootie socks are not authorized.

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Tie - A regulation necktie, black in color, with a break-away or snap, accompanied with a department approved tie bar. The tie shall reach at least to the top of the member's duty belt, but shall not extend not below the member's duty belt.

Tie Bar - Plain facing, approximately 2-1/8-inches in length and 1/4-inch in width. There shall be nothing attached to or hanging from the bar. The tie bar shall be worn horizontally and level with the bottom of the shirt pocket flaps.

Uniform Badge - The criteria for issuing a uniform badge will be for those members whose job responsibilities require them to issue parking citations.

Uniform Shirt - Regulation police uniform shirt, light blue, short or long sleeve, wool or polyester. An alternate uniform polo shirt in the current approved style and color (black) may be worn with black BDU uniform pants. The alternate uniform shirt shall have a cloth badge with a rocker identifying the position. The alternate uniform shirt shall have a cloth name tag with white lettering.

Uniform Trouser/Pants - Regulation police trousers, navy blue, wool, polyester, or blend. Alternate uniform BDU pants, black in color, may be worn with the current approved style and color alternate uniform polo shirt.

Undershirt - A white or black crew neck undershirt shall be worn under the uniform shirt.

1020.5.2 RECORDS BUREAU, COMMUNICATIONS, AND EVIDENCE PERSONNEL

Full-time and designated part-time Records Bureau, Communications, and Evidence personnel are required to wear the following items of uniform apparel. Part-time relief personnel may be exempted from the requirement to wear the designated uniform and wear casual business attire with the approval of their supervisor.

Belt - Black, basket weave uniform belt

Pants - Regulation police trousers, navy blue, wool, polyester, or blend. Alternate uniform BDU pants, black in color, may be worn with the current approved style and color (black) alternate uniform polo shirt.

Shirt - Authorized long sleeve or short sleeve polo shirt of approved fabric and color, with the Police Department logo sewn on the left chest side. Shirts are to be worn tucked into the pants and shall not be bloused loosely over the belt area. As an alternative, the authorized polo shirt may be worn without being tucked into the pants provided the shirt is not excessively long and/or baggy and is tailored evenly around the entire hemline. Pregnant female members may be exempt from tucking the shirt into the pants.

Shoes - Footwear worn with the uniform shall be black in color, smooth finished, plain with polishable toe, with no decorative stitching or design. For non-Class A uniforms, alternate uniform Uniform boots (tactical style with nylon or similar materials), black in color, or work-type footwear may be worn if similar in styling to traditional police footwear, and are free from significant embellishments or markings not commensurate with police footwear. Expressly prohibited are pointed-style or steel-toe boots.

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Socks - Socks shall be crew length type that cover the ankles. Ankle or bootie-type socks are not authorized. Socks shall be plain black or dark blue in color with no design or decoration.

Sweater/Jacket - Dark blue knit uniform sweater or authorized jacket. Sweatshirts and jackets are not authorized uniform apparel.

Pregnant females may be authorized to wear maternity clothing that meets contemporary business standards.

1020.5.3 CHAPLAIN

Buttons - All shirt buttons shall be compatible with the color of the shirt.

Caps - Baseball style caps, as approved by the Chief of Police.

Name Tag - Name tags are required on all duty jackets, but shall not negate the requirements for name tag to be worn on the uniform shirt.

Duty Jacket - Nylon police jacket of light or medium weight, of a color approved by the Department. A cloth name tag shall be required for all duty jacket.

Footwear -Footwear worn with the uniform shall be black in color, smooth finished, plain with polishable toe, with no decorative stitching or design. For non-Class A uniforms, alternate uniform Uniform boots (tactical style with nylon or similar materials), black in color, or work-type footwear may be worn if similar in styling to traditional police footwear, and are free from significant embellishments or markings not commensurate with police footwear. Expressly prohibited are pointed-style or steel-toe boots.

Gloves - Black, should only be worn with long sleeve uniform shirts.

High-Visibility Vests - One high-visibility vest will be issued to each member exposed to traffic hazards. Members shall have their high-visibility vest available whenever working a field assignment. These vests shall be utilized per the High-visibility Vests policy.

Patches - Shoulder insignia patches are provided by the Department and shall be worn on the shoulder of each sleeve. They shall be attached by means of stitching which is not obvious to view or decorative. Patches are to be worn by uniformed officers and other uniformed field personnel. Patches are purchased by the City and are department property. In order to prevent their misuse, illegal representation, or embarrassment to the Department, they shall not be given away or be available for purchase. Written requests for patches shall be forwarded to the Administrative Specialist who will respond with a letter of denial.

Pins - Awards and pins may be worn on the uniform as approved by the Chief of Police. These shall be limited to that number presenting a neat appearance on or above the right breast pocket flap, except the flag pin which must be worn on the left breast pocket flap. No more than one of the same type of pin shall be displayed.

Rain Clothing - Rain coats and boots are available to members engaged in field activities. Optional hat covers shall be clear plastic.

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Sam Browne Belt / Alternative Duty Belt - Sam Browne Belt is to be black in color, leather basket weave or nylon style, and secured by matching belt keepers with hidden snaps. Alternate black duty belts of nylon or similar style may be worn, and shall contain adequate retention to the body. All belt hardware including buckles shall be black in color.

Socks - When visible, socks worn with the uniform shall be black or navy blue with no design or decoration. They shall be crew length so that the ankles are covered. Ankle socks or bootie socks are not authorized.

Tie - A regulation necktie, black in color, with a break-away or snap, accompanied with a department approved tie bar. The tie shall reach at least to the top of the member's duty belt, but shall not extend not below the member's duty belt.

Tie Bar - Plain facing, approximately 2-1/8-inches in length and 1/4-inch in width. There shall be nothing attached to or hanging from the bar. The tie bar shall be worn horizontally and level with the bottom of the shirt pocket flaps.

Uniform Shirt - Regulation police uniform shirt, short or long sleeve, wool or polyester.

Uniform Trouser/Pants - Regulation police trousers, navy blue, wool, polyester, or blend. Alternate uniform BDU pants, black in color, may be worn with the current approved style and color (black) alternate uniform polo shirt.

Undershirt - A white crew neck undershirt shall be worn under the uniform shirt.

1020.6 OTHER APPAREL, UNIFORM, AND EQUIPMENT REQUIREMENTS

The following apparel, uniform, and equipment requirements pertain to all members, unless specified differently:

1020.6.1 DENIM CLOTHING

In accordance with the City Manager's Weekly Report directive dated April 24, 2008, in the normal course of business or regular assignment, the wearing of denim clothing is prohibited. Supervisors may, however, approve the wearing of jeans for special assignments on a case by case basis.

1020.6.2 BRASSIERE

Female members of the Department shall be required to wear a brassiere.

1020.6.3 TRAINING APPAREL

In order to portray a professional image of the Department, members attending a training class or an in-house meeting shall wear casual business attire. Members shall not wear shorts, t-shirts, tank tops, or shower shoes/flip flops. Members may wear jeans that are in good condition without holes, stains, or fading.

Members attending training classes having a dress code shall adhere to the dress code.

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1020.6.4 ELECTRONIC EQUIPMENT

For safety purposes, personal cell phones may be worn or carried on-duty by uniform personnel, however the cell phone shall be on vibrate mode and the ring tone silenced. Members shall not conduct or answer personal calls while speaking with a member of the public absent exigent circumstances

1020.6.5 LEATHER EQUIPMENT

All leather equipment shall be kept dyed and shined and be replaced when cracked, checked, or otherwise worn out.

1020.6.6 CONTROL AND SECURITY OF UNIFORM AND EQUIPMENT

Uniforms and issued equipment remain the property of the City of Montclair. Members shall not sell, give, loan, or otherwise furnish any portion of the authorized uniform or equipment to any person not employed by this department or any person without authorization from the Chief of Police to possess such uniforms or equipment.

1020.6.7 EQUIPMENT AUTHORIZATION

Equipment not outlined in this manual or authorized by the Chief of Police or designee shall not be worn on the uniform or Sam Browne belt.

1020.6.8 OPTIONAL EQUIPMENT

The Department will issue a member all of the equipment necessary to perform his/her job. However, members have the option of purchasing their own equipment. The equipment purchased shall conform with department policy.

1020.6.9 ISSUED OFFICE KEYS AND ACCESS CARDS

The Department shall issue each member an identification card which will grant the member access into the building and authorized members access into the Temporary Holding Facility and certain bureaus. Members may only be issued office keys through the facility's maintenance supervisor. These keys shall not be traded among members in the event a member vacates an office, but rather shall be returned to the facility maintenance supervisor.

Police Cadets

1021.1 PURPOSE AND SCOPE

Cadets work under direct supervision, perform a variety of duties in a support function.

1021.2 PROGRAM COORDINATOR

The Technical Services Specialist will serve as the program coordinator. This supervisor will be responsible for monitoring job performance of cadets as well as making their individual assignments. He/she will also monitor the training provided for all cadets and review decisions affecting job assignments.

1021.3 ORIENTATION AND TRAINING

Newly hired cadets will receive an orientation of the organization and facilities before reporting to their first assignment. On the job training will be provided. Training sessions will be scheduled as needed to train cadets for as many assignments as possible.

Temporary Modified-Duty Assignments

1022.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

1022.2 POLICY

Subject to operational considerations, the Montclair Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

1022.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Montclair Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

1022.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Temporary Modified-Duty Assignments

Employees seeking a temporary modified-duty assignment should submit a written request to their Lieutenants or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Lieutenant will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Personnel Department or the City Attorney as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Lieutenant, with notice to the Chief of Police.

1022.4.1 MODIFIED-DUTY ASSIGNMENTS AND SCHEDULES

Members assigned to modified duty shall be provided with a memorandum outlining their job duties, scheduled hours, restrictions, and their supervisor.

1022.4.2 ACCOUNTABILITY

Members on modified duty are responsible for coordinating required doctor visits and physical therapy appointments in advance with their supervisor to appropriately account for any duty time taken. Any documentation from the doctor visit or physical therapy shall be provided to the member's supervisor, who shall forward it to the City Personnel Officer.

Doctor visits and appointments for treatment of injuries or illnesses that are not work related shall be arranged during off-duty time or otherwise charged to the member's sick leave.

1022.4.3 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, members shall be required to provide a statement signed by their health care provider indicating they are medically cleared to perform the basic and essential job functions of their assignment without restriction or limitation.

1022.5 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Lieutenant.

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Temporary Modified-Duty Assignments

1022.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Lieutenant that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

1022.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Lieutenant of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Lieutenant and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

1022.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

1022.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

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1022.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

1022.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

1022.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Professional Business Environment

1023.1 PURPOSE AND SCOPE

As a government agency, it is important that the Police Department maintain a professional business environment. In order to ensure a professional image of the Department is maintained, members of the Department are to conduct themselves in a professional manner.

1023.2 PROFESSIONAL BEHAVIOR

Members of the Department shall conduct themselves professionally while on-duty. Members shall not conduct themselves in such a way, on-duty or off-duty, that would embarrass or discredit the City of Montclair and the Montclair Police Department.

Loud, boisterous, and disruptive behavior and horseplay while on-duty do not constitute professional conduct.

Feet shall be kept off of desks, workstations, and tabletops.

Members shall not read newspapers, books, or magazines, play cards, or do other such activities of a personal nature while on-duty in public view.

1023.3 POLICE FACILITY

All members of the Department are responsible for maintaining the professional appearance and environment of the police facility.

Members shall maintain their work area in a reasonably clean and neat condition. Food items, trash, and piles of papers to be shredded should not be accumulated on the desktops and should be disposed of at the end of the work day.

Members shall be diligent in cleaning up after themselves, replacing items and equipment in their designated places, and leaving work areas and police vehicles in a neat and orderly condition.

Members may take their breaks and meal breaks at various locations in the facility, however they shall be responsible for cleaning up the area used for the break. Members are expected to place trash in trash receptacles and wipe down the table so as to clean up any food residue or crumbs. Members are expected to clean up any spills they make, either by wiping it up or reporting it to custodial staff (e.g., a carpet spill).

Members using the refrigerator and freezer in the kitchen should ensure the items placed in them are properly marked with the member's name and the date. A notice is posted on the refrigerator advising members of the criteria for disposal of items placed in the refrigerator and freezer. It is each member's responsibility to comply with this requirement.

Members responsible for stocking equipment, forms, and supplies shall regularly check supply levels and ensure sufficient equipment, forms, and supplies are available.

The Facility Maintenance Supervisor is responsible for coordinating the repair and maintenance needs of the facility. When members become aware of any part of the facility that is broken,

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inoperable, or otherwise in need of repair, they should report the matter by completing an online work request at <http://maintenance>.

In order to prevent members from borrowing other members' equipment and property, members shall keep their lockers locked when not attended.

In order to maintain the professional appearance of the facility and to prevent damage, the following guidelines shall be in effect:

- (a) Items shall not be hung on the walls or doors in the general corridors or rooms of the facility without the approval of the Chief of Police.
- (b) All hanging pictures/posters displayed on the walls of individual offices must be framed. Members requesting a picture hung in their office shall make an online work request to the Facility Maintenance Supervisor (<http://maintenance>) who will hang the picture.
- (c) Members shall not apply tape or other adhesive material to any door, window, wall, or wood surface.
- (d) Members shall not place any item(s) on top of the cubicles.
- (e) To prevent growing gnats, water damage to furniture and carpet, and in consideration of those persons who may have allergies, members may not have live plants. This does not preclude a member from receiving a gift of a flower arrangement. In the event such a flower arrangement is a problem for another member (e.g., allergy), the flower arrangement shall be taken home. Silk plants may be authorized for individual offices.
- (f) Brochures and fliers for events may only be left in the lobby for display if they are for City-sponsored events.

Employee Speech, Expression and Social Networking

1024.1 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.

1024.1.1 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.

1024.2 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 Montclair 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.

1024.3 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 Montclair 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:

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- 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.

1024.4 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 Montclair 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 Montclair Police Department and tends to compromise or damage the mission, function, reputation, or professionalism of the Montclair 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 Montclair 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 Montclair Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

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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).

1024.4.1 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 Montclair Police Department or identify themselves in any way that could be reasonably perceived as representing the Montclair 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 Montclair Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

1024.5 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

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may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

1024.6 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.

1024.7 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.

Performance Appraisals

1025.1 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement. Performance appraisals shall be completed in accordance with the provisions of the member's Memorandum of Understanding (MOU).

1025.1.1 POLICY

The Montclair Police Department utilizes a Performance Appraisal to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion, and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1025.1.2 EVALUATION PROCESS

Performance Appraisals will cover a specific period of time and should be based on documented and observed performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and non-sworn supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment, subject to the availability of the training.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

1025.1.3 PERFORMANCE APPRAISAL INTERVIEW

When the supervisor has completed the Performance Appraisal, arrangements should be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for

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reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions, and training opportunities. The supervisor and employee will sign and date the evaluation.

1025.1.4 PERFORMANCE APPRAISAL REVIEW

The rater's supervisor should review the Performance Appraisal for fairness, impartiality, uniformity, and consistency. The rater's supervisor should evaluate the supervisors in-part on the quality of their authored Performance Appraisals.

1025.1.5 TRIMESTER EVALUATIONS

Trimester evaluations shall be completed on uniform patrol personnel at the end of each shift rotation. The purpose of the evaluation is to assist the supervisor in writing the annual Performance Appraisal.

Line-of-Duty Deaths

1026.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Montclair 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 for a non-line-of-duty member death, or in situations where members are injured in the line of duty and the injuries are life-threatening.

1026.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of an officer during the course of performing law enforcement-related functions while on- or off-duty, or a non-sworn member during the course of performing assigned duties.

For an officer, a line-of-duty death includes death that is the direct and proximate result of a personal injury sustained in the line of duty (34 USC § 10281).

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin, or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1026.2 POLICY

It is the policy of the Montclair 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.

1026.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Watch Commander and Dispatch.
 - 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).
- (b) The Watch Commander should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the Watch Commander or the authorized designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

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- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

1026.4 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. Notifying members should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities, and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends, or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting child care or other immediate needs.

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- (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 survivors' 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 Montclair Police Department members may be apprised that survivor notifications are complete.

1026.4.1 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.

1026.5 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 shifts. Members reporting for duty from their residences should be instructed to contact their supervisors as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

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1026.6 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) Wellness Support Liaison.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed. The Department should consider seeking assistance from surrounding law enforcement agencies to fill liaison and coordinator positions, as appropriate.

1026.6.1 DEPARTMENT LIAISON

The Department Liaison should be a 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.
- (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-staff.
- (g) Reminding department members of appropriate information-sharing restrictions regarding the release of information that could undermine future legal proceedings.

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- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

1026.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Establish a command post or incident command system, as appropriate, to facilitate management of the situation and its impact on hospital operations (e.g., influx of people, parking).
- (b) Arrange for appropriate and separate waiting areas for:
 - 1. The survivors and others whose presence is requested by the survivors.
 - 2. Department members and friends of the deceased member.
 - 3. Media personnel.
- (c) Ensure, as practicable, that any suspects who are in the hospital and their families or friends are not in proximity to the member's survivors or Montclair Police Department members (except for members who may be guarding a suspect).
- (d) Arrange for survivors to receive timely updates regarding the member before information is released to others.
- (e) Arrange for survivors to have private time with the member, if requested.
 - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
 - 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (f) Stay with survivors and provide them with other assistance as needed at the hospital.
- (g) If applicable, explain to the survivors why an autopsy may be needed.
- (h) Make arrangements for hospital bills to be directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment, and that the member's residence address, insurance information, and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting their actions at the conclusion of duties.

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1026.6.3 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 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.
- 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 Wellness Support Liaison for survivors to have access to available counseling services.

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- (h) Coordinating with the department's Public Information Officer (PIO) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal, and administrative investigations.
- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel, and other involved personnel as appropriate.
- (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 (e.g., as applicable, the Annual Candlelight Vigil at the National Law Enforcement Officers Memorial), or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department 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.

1026.6.4 WELLNESS SUPPORT LIAISON

The Wellness Support Liaison should work with the department wellness coordinator or the authorized designee and other liaisons and coordinators to make wellness support and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the Wellness Support Liaison include but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for wellness support and counseling services, including:
 - 1. Members involved in the incident.
 - 2. Members who witnessed the incident.
 - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Making arrangements for members who were involved in or witnessed the incident to be relieved of department responsibilities until they can receive wellness support.

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- (c) Making wellness support and counseling resources (e.g., peer support, Critical Incident Stress Debriefing) available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to inform survivors of available wellness support and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional wellness support or counseling services are needed.

1026.6.5 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.
- (g) Addressing event-related logistical matters (e.g., parking, visitor overflow, public assembly areas).

1026.6.6 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:

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- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Montclair Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform duties in accordance with the Outside Agency Assistance Policy.

Where practicable, the Chief of Police should appoint a mutual aid coordinator to identify external resources in advance of any need (e.g., regional honor guard teams, county- or state-wide resources).

1026.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and will assist them in applying for benefits. Responsibilities of the Benefits Liaison include but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the following:
 - 1. Public Safety Officers' Benefits Program, including financial assistance available through the Public Safety Officers' Educational Assistance (PSOEA) Program, as applicable (34 USC § 10281 et seq.).
 - 2. Social Security Administration.
 - 3. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits, such as:
 - 1. Education benefits (Education Code § 68120).
 - 2. Health benefits (Labor Code § 4856).
 - 3. Workers' compensation death benefit (Labor Code § 4702).
- (d) Researching and assisting survivors with application for other survivor benefits such as:
 - 1. Private foundation survivor benefits programs.
 - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
 - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.

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- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

1026.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
 - 1. Paying survivors' travel costs if authorized.
 - 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.

1026.7 PUBLIC INFORMATION OFFICER

In the event of a line-of-duty death, the department's PIO should be the department's contact point for the media. As such, the PIO should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Instruct department members to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
 - 1. Coordinate with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
 - 2. Disseminate important public information, such as information on how the public can show support for the department 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.

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- (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 have obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should notify media when survivor notifications have been made.

1026.8 DEPARTMENT CHAPLAIN

The Department chaplain may serve a significant role in line-of-duty deaths. Chaplain duties may include but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support, or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department 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.

1026.9 INVESTIGATION OF THE INCIDENT

The Chief of Police should make necessary assignments to conduct thorough investigations of any line-of-duty death and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends, or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1026.10 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.

1026.11 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.

Commendations Awards and Service Ribbons

1027.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Montclair Police Department and individuals from the community.

1027.2 POLICY

It is the policy of the Montclair Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations, awards, and service ribbons..

1027.3 COMMENDATIONS

Commendations for members of the Department or for individuals from the community may be initiated by any department member or by any person from the community. A written commendation may be made by any supervisor regarding any other member of the Department. Any member may recommend a commendation to the supervisor of the member subject to the commendation.

1027.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

1027.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
 - 1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
 - 2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

1027.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

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- (a) Identifying information:
 - 1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
 - 2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

1027.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Lieutenant for his/her review. The Lieutenant should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police or the authorized designee will present the commendation to the department member for his/her signature. The documentation will then be returned to the Administration secretary for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Captain. The documentation will be signed by the Captain and forwarded to the Chief of Police for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

1027.5 AWARDS

Awards may be bestowed upon members of the Department. Criteria for each award and the selection, presentation and display of any award are determined by the Chief of Police. These awards include:

- (a) **Medal of Valor** - The Medal of Valor is the highest award that can be bestowed upon a member of the Montclair Police Department. This award is earned through action(s) on the part of the member that is above and beyond the call of duty, displays a concern for the safety of others under circumstances that may expose himself/herself to danger without undo recklessness and with due consideration to the potential risk to others, and is performed in a manner that enhances the profession or departmental image.
- (b) **Montclair Purple Heart** - The Montclair Purple Heart award is presented to the member who is seriously wounded in a felonious attack while in the performance of his/her duties, such as an injury inflicted by weapons, gunshot wounds inflicted in the line of duty, or an injury so severe that it would require substantial emergency room sutures, hospitalization, or comprehensive medical treatment for a sustained period of time.
- (c) **Life Saving Medal** - The Life Saving Medal Award is to be presented to members of the Montclair Police Department who, during the preceding year can be credited with saving a human life, with due consideration for the safety of others, and is performed in a manner that enhances the profession or departmental image. For individuals who

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are not members of the Montclair Police Department, the Life Saving Award may be presented, upon nomination, for saving a human life within the City of Montclair under circumstances that are beyond their normal duties and were not done in a reckless manner.

- (d) **Certificate of Recognition** - The Certificate of Recognition is presented to members or non-members who have distinguished themselves through selfless actions beyond their normal responsibilities for the benefit of the Montclair Police Department, the community, or humanity. This award is not intended for philanthropic endeavors, but instead is for actions related to crime prevention efforts, the enforcement of criminal law, or an exceptional display of professionalism during trying circumstances.
- (e) **Officer of the Year** - The Officer of the Year Award is presented each year to the police officer whose contribution to the Montclair Police Department and the community goes above and beyond that which is routinely expected. The recipient of this award is selected by the sergeants.
- (f) **Annual Achievement** - The Annual Achievement Award is presented each year to a member of the Montclair Police Department who epitomizes the high standards of professionalism, loyalty, commitment, and dedicated service to the organization and the community. This prestigious award is not a popularity contest, but an award presented for a variety of reasons, including service within and outside the organization, attitude toward the organization, and its members, helpfulness, inspiration, and other positive attributes of meritorious service. Any member of the organization can nominate an individual for this award during the nomination period. The selection committee is comprised of the four previous award recipients.

1027.6 SERVICE RIBBONS

Service ribbons are awarded to employees for specific assignments held during the course of their career. The ribbons are awarded to employees who have served a minimum of one (1) year in the assignment and have met the minimum requirement(s) for the respective ribbon. The service ribbon awards are as follows:

Medal of Valor – White ribbon with Blue and Red vertical strips (Item 5315): This ribbon may be earned through an action on the part of the employee that is above and beyond the call of duty; and displays a concern for the safety of others under circumstances that may expose himself or herself to danger without undo recklessness and with due consideration to the potential risk to others; and is performed in a manner that enhances the profession or department image.

Montclair Police Purple Heart – Purple and Silver stripes (Item 3405): The Montclair Police Purple Heart is presented to the member who is seriously wounded in a felonious attack while in the performance of his/her duties, such as an injury inflicted by weapons, gunshot wounds inflicted in the line of duty, or an injury so severe that it would require substantial emergency room sutures, hospitalization, or comprehensive medical treatment for a sustained period of time.

Prior Military Service – Red, White and Blue vertical stripes (Item 3505): This ribbon may be awarded to those personnel who have previously served in a branch of the United States Armed

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Forces. This ribbon requires an "Honorable Discharge" designation on the employee's DD214 form.

Officer of the Year – Blue and Silver vertical stripes (Item 5304): The Officer of the Year is presented each year to the police officer whose contribution to the Montclair Police Department and the community goes above and beyond that which is routinely expected. The recipient of this award is selected by the sergeants.

Annual Achievement – Red and Silver vertical stripes (Item 5019): The Annual Achievement is presented each year to a member of the Montclair Police Department who epitomizes the high standards of professionalism, loyalty, commitment, and dedicated service to the organization and the community. This prestigious award is not a popularity contest, but an award presented for a variety of reasons, including service within and outside the organization, attitude toward the organization, and its members, helpfulness, inspiration, and other positive attributes of meritorious service. Any member of the organization can nominate an individual for this award during the nomination period. The selection committee is comprised of the three previous award recipients.

Life Saving – Blue ribbon with two White and one Red vertical stripes (Item 3600): The Life Saving Medal Award is to be presented to members of the Montclair Police Department who, during the preceding year can be credited with saving a human life, with due consideration for the safety of others, and is performed in a manner that enhances the profession or departmental image. For individuals who are not members of the Montclair Police Department, the Life Saving Award may be presented, upon nomination, for saving a human life within the City of Montclair under circumstances that are beyond their normal duties and were not done in a reckless manner.

Good Conduct – Red with one Blue stripe (Item 3514): This ribbon may be awarded to sworn personnel who have achieved three (3) consecutive annual performance appraisals with a minimal overall rating of "Exceeds Standards."

FBI National Academy or Command College – Gold ribbon with two Blue vertical stripes (Item 3653): This ribbon may be awarded those personnel who have successfully completed and graduated from the FBI National Academy or Command College.

Sherman Block Supervisor Leadership Institute (SLI) – White and Gold ribbon (Item 3105): This ribbon may be awarded to those personnel who have successfully completed and graduated from SLI.

Investigations – Black and Yellow ribbon (Item 3278): This ribbon may be awarded to personnel assigned to the Detective Bureau as a Detective, Department Background Investigator, Westnet, and/or IRNET as a Investigator. The employee must complete one (1) year in the assignment, complete the required training for the assignment, and achieve a minimum overall performance appraisal rating of "Meets Standards" for the period preceding the employee's request for the ribbon.

Special Teams – Green with Black vertical strips (Item 3617): This ribbon may be awarded to those sworn personnel who work within an assignment on a Specialty Team.

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A Specialty Team is considered any of the following:

- SET
- POP/CSU
- SRO
- MFF
- Canine Team
- Arson Team
- Explorer Advisor

Ribbon Requirements:

- Employee must complete one (1) year in assignment.
- Complete required training for the position.
- Achieve a minimum overall performance appraisal rating of "Meets Standard" for the period immediately preceding the employee's request for the ribbon.

Traffic Operations – Blue with one White stripe (Item 5314)

This ribbon may be awarded to those personnel who have held an assignment related to traffic operations.

A position within Traffic Operations is any of the following:

- Motor Officer
- MAIT

Ribbon requirements:

- (Employee must complete one (1) year in assignment.
- Complete required training for the assignment
- Achieve a minimum overall performance appraisal rating of "Meets Standards" for the period immediately preceding the employee's request for the ribbon.

Tactical Teams – Blue with Black vertical stripes (Item 3618)

This ribbon may be awarded to those personnel assigned to any of the following tactical teams:

- SWAT (Operators and Crisis Negotiators).

Ribbon requirements:

- Employee must complete one (1) year in assignment.
- Complete POST training for the assignment.
- Achieve a minimum overall performance appraisal rating of "Meets Standards" for the period immediately preceding the employee's request for the ribbon.

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Field Training Officer (FTO) – Light Blue ribbon with two gold and one solid blue vertical stripe (Item 5147)

This ribbon may be awarded to those personnel who have served as a FTO.

Ribbon Requirements:

- Employee must complete one (1) year in the assignment.
- Complete required POST training for the assignment.

Department Instructor – Grey with two Black vertical stripes and one Red vertical strip (Item 3639)

This ribbon may be awarded to sworn individuals who have serve as Department Instructors for any of the following:

- CPR/AED
- Active Shooter
- Taser
- Less Lethal Munitions
- Defensive Tactics
- Weaponless Defense
- Baton
- MFF
- Firearms

Ribbon requirements:

- Complete POST Instructor training.
- Employee must complete first course of instruction.

Top Shooter – Blue ribbon with two Yellow vertical stripes on each end (Item 5154)

This ribbon may be awarded to sworn individuals who chose to participate in the Top Shooter competition.

Ribbon Requirements:

- Participate in four (4) Pistol Proficiency Courses of fire within one year.
- Achieve the highest accumulative numerical score from all four course of fire out of all participants.

Mother's Against Drunk Driving (MADD) – Solid Red ribbon (Item 3009)

This ribbon may be awarded to those personnel who are recognized by MADD at either the state or local level.

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Ribbon requirements:

- Notification by MADD that the employee has been recognized as an award recipient.

Reserve Officer of the Year – Green and Silver ribbon with vertical stripes (Item 5031)

The Reserve Officer of the Year is presented each year to the reserve police officer whose contribution to the Montclair Police Department and the community goes above and beyond that which is routinely expected. The recipient of this award is selected by the reserve captain and the reserve coordinator.

Outstanding Reserve Police Officer Work – Silver ribbon with three Black vertical stripes (Item 4044)

This ribbon may be awarded to a reserve police officer whose actions related to crime prevention efforts, the enforcement of criminal law, or an exceptional display of professionalism during the course of their duties.

500 Reserve Police Officer Hours – Yellow ribbon with Orange vertical stripes (Item 4215)

This ribbon may be awarded to a reserve police officer who has worked 500 or more hours of volunteer patrol related duties in a one (1) year time span.

1027.6.1 PROCEDURES FOR NOMINATIONS OR SELECTIONS

A Montclair Police Department Service Ribbon Worksheet shall be added to the personnel file of all sworn and reserve officers. When an officer believes he/she is eligible for a particular service ribbon, he/she shall submit all justifying documentation to their direct supervisor. That supervisor shall cause a review of the material and verification that all criteria have been satisfied. Once completed, the employee's supervisor will issue a memorandum to the employee with his/her findings. A copy of the memorandum shall be submitted to the Support Services or Patrol Lieutenant. The Lieutenant shall review the submitted memorandum and issue the applicable ribbon to the employee. The Lieutenant shall ensure the Service Ribbon Work Sheet is completed upon issuance of the applicable ribbon.

All service ribbons will be awarded at the completion of an assignment, unless otherwise indicated, or when an employee has been reassigned through promotion or transfer.

The Chief of Police may award a service ribbon to an individual for partial completion of time in an assignment when it is clear that the individual would have qualified for the ribbon, but was unable to fulfill the criteria through no fault of their own.

1027.6.2 LIGHT/MODIFIED DUTY ASSIGNMENT

There will be no service ribbons awarded for qualification in a particular category which is a result of a light/modified duty assignment.

1027.6.3 SERVICE RIBBON QUALIFICATION

Service ribbon qualification will be determined as a result of service with the Montclair Police Department only. Should an individual earn a service ribbon in a particular assignment or category

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multiple times, the individual will be recognized by the addition of a gold star to the existing ribbon. No employee shall receive any more than four (4) gold stars to any one existing ribbon. No prior service will be considered.

1027.6.4 SUPERVISOR DESIGNATION

Should an individual earn a service ribbon in a particular assignment and subsequently serve as a direct/immediate supervisor in that assignment, their service as a supervisor will be recognized by the addition of a gold star to the existing service ribbon.

1027.6.5 DISPLAY OF RIBBONS

Service ribbons may be worn on a class "A" uniform. The wearing of service ribbons is optional. Ribbons will be worn over the left breast pocket flap between the bottom of the uniform badge and the top of the pocket flap button. Ribbons will be placed in a row on a ribbon holder and displayed, right-to-left, in order of precedence. No more than three ribbons shall be displayed in a row.

1027.6.6 SERVICE RIBBON ORDER OF PRECEDENCE

1. Medal of Valor
2. Montclair Police Purple Heart
3. Military Service
4. Officer of the Year
5. Reserve Officer of the Year
6. Annual Achievement
7. Life Saving
8. Good Conduct
9. FBI National Academy or Command College
10. Sherman Block Supervisor Leadership Institute (SLI)
11. Investigations
12. Special Teams
13. Traffic Operations
14. Tactical Teams
15. Field Training Officer
16. Department POST Instructor
17. Top Shooter
18. Mother's Against Drunk Driving (MADD)
19. Outstanding Reserve Police Officer Work
20. 500 Reserve Police Officer Hours

Occupational Disease and Work-Related Injury Reporting

1028.1 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.

1028.1.1 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.).

1028.2 POLICY

The Montclair 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.).

1028.3 INJURIES REQUIRING MEDICAL CARE

All work-related injuries requiring medical care must be reported to the City of Montclair Personnel Officer. A State of California Workers Compensation Claim Form (DWC-1) shall be provided to the injured member within 24 hours from the time the injury was discovered, excluding weekends and holidays. In the event of death, the claim form shall be provided to the member's dependent within 24 hours. For reporting, the following forms are required:

- (a) City of Montclair Supervisor's Report of Accident
- (b) Current Employer's Report of Occupational Injury or Illness Form
- (c) State of California Workers Compensation Claim Form DWC-1

1028.4 MEMBER'S RESPONSIBILITY

Any member sustaining any work-related injury or illness, as well as any member who is involved in any accident while on-duty shall report such injury, illness, or accident as soon as practical to his/her supervisor.

Any member observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any member sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor. Any member sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

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Occupational Disease and Work-Related Injury Reporting

When appropriate, a member being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Limited-service duty may be available for members whose injuries prevent resumption of regular duties.

An injured member or member who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor the medical findings concerning the injury and the extent and duration of any work restrictions if they are known. In addition, such members are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

1028.5 SUPERVISOR'S RESPONSIBILITY

A supervisor learning of any work-related injury, illness, or accident requiring medical attention shall promptly prepare the appropriate forms.

The completed forms documenting the injury or accident should be promptly forwarded to the Chief of Police through the chain of command. The Chief of Police shall review the forms and forward them to the City Personnel Officer.

1028.6 OTHER DISEASE OR INJURY

For work-related accidents, injuries, or illness not requiring professional medical care, the injury shall be recorded on the Exposure/Non-Reportable Injury Log. The log book is located in the Watch Commander's office. This entry shall be completed by a supervisor and signed by the member and supervisor. By signing this entry, the member will not preclude his/her ability to seek medical attention at a later time, however prior to the member seeking medical attention for his/her injury, shall seek supervisory approval. The completion of the appropriate forms would be required at that time. The Watch Commander should notify their immediate supervisor when any such entry into the Exposure/Injury Log Book is made, and properly document in the Patrol Sergeant's Shift Report if applicable.

Unless the injury is extremely minor, this entry into the Exposure/Injury Log Book 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.

1028.7 MEMBERS ON INJURED-ON-DUTY (IOD) STATUS

Members on injured-on-duty (IOD) status may be required to:

- (a) Perform limited duty that is not injurious to the member's health or disability
- (b) Report to a licensed physician designated by the supervisor for examination

1028.8 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

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Occupational Disease and Work-Related Injury Reporting

1028.8.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

Nepotism and Conflicting Relationships

1029.1 PURPOSE AND SCOPE

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

1029.1.1 DEFINITIONS

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

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

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

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

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

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

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

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

1029.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
 2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
 - (c) Whenever possible, FTOs and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
 - (d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
 - (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

1029.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

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

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1029.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police of such actual or potential violations through the chain of command.

Department Badges

1030.1 PURPOSE AND SCOPE

The Montclair Police Department badge and uniform patch as well as the likeness of these items and the name of the Montclair Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1030.2 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.

1030.2.1 FLAT BADGE

A flat badge capable of being carried in a wallet shall be issued to officers. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge. The badge remains the property of the City of Montclair.

The uniform badge and flat badge shall bear the same identifying number and are issued together.

1030.2.2 NON-SWORN 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. Cadet, Chaplain, Explorer).

- (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.

1030.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and non-sworn uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief of Police.

Employees shall not loan his/her department badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

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1030.4 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 Montclair 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.

1030.5 ISSUANCE OF DISPLAY BADGE/PREVIOUS SERIES

The Department retains previous series of badges when replaced with a new style badge. Upon honorable separation from service, a sworn peace officer may request to purchase, at the current rate, a previous series display badge issued to the member. Badges are issued on a first come, first served basis. A member may qualify to purchase more than one badge. All such requests must be made in writing to the Chief of Police. Display badges will be issued to the member at the discretion of the Chief of Police. It is intended that display badges be used only as private memorabilia, as other uses of the badge may be unlawful or in violation of this policy. To prevent misuse and ensure the badge remains as memorabilia, the badge shall be encased in acrylic or mounted on a plaque or shadow box. The retiree may be required, at the request of the Chief of Police, to submit proof that the badge has been encased or mounted.

A record of the issued retirement badge and serial number, along with a signed Badge Agreement form, shall be included in the retiring employee's Personnel File.

1030.6 MISUSE OF DEPARTMENT BADGES OR CREDENTIALS

Retirees are prohibited from wearing a display badge issued by the Department. Use of a display badge for the purpose of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he/she is a peace officer (Penal Code 538d).

The Chief of Police reserves the right to revoke the privilege to possess a retirement badge, display badge, or department issued identification for misuse or abuse of the credentials.

1030.7 ISSUANCE OF "HONORABLY RETIRED" BADGE

A retiring sworn peace officer meeting the tenure requirement may request an "Honorably Retired" peace officer flat badge. All such requests must be made in writing to the Chief of Police. Retirement badges will be issued to retiring employees at the discretion of the Chief of Police. The retirement badge shall bear the inscription "Honorably Retired" on the front of

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the badge. A record of the issued retirement badge, along with a signed Badge Agreement form, shall be included in the retiring employee's personnel file.

The Department will purchase the badge for the retiree if the member has served with the City of Montclair Police Department as a sworn peace officer for an aggregate of 15 years or more. The Chief of Police shall have the discretion to authorize the purchase of a retirement badge for a retiring sworn peace officer. Chief of Police is authorized to revoke a retirement badge or identification granted pursuant to this subdivision in the event of misuse or abuse. The issuance of a Department badge to a member is a privilege not a right.

Illness and Injury Prevention

1031.1 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 Montclair Police Department, in accordance with the requirements of 8 CCR 3203.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Citywide safety efforts.

1031.2 POLICY

The Montclair 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.

1031.3 ILLNESS AND INJURY PREVENTION PLAN

The Support Services 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.

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- (f) Establishment of a process to ensure serious illnesses or injuries and death are reported as required by the Division of Occupational Safety and Health Administration (Cal/OSHA) (8 CCR 342).

1031.4 ADMINISTRATION LIEUTENANT RESPONSIBILITIES

The responsibilities of the Administration 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; 8 CCR 3396)
 - (e) Emergency Action Plan (8 CCR 3220)
 - (f) Fire Prevention Plan (8 CCR 3221)
 - (g) Hazards associated with wildfire smoke (8 CCR 5141.1)
- (e) Making available the Identified Hazards and Correction Record form to document inspections, unsafe conditions or work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available the Investigation/Corrective Action Report to document individual incidents or accidents.

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- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Conducting and documenting a regular review of the illness and injury prevention plan.

1031.5 SUPERVISOR RESPONSIBILITIES

Supervisor responsibilities include, but are not limited to:

- (a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the Administration Lieutenant.
- (e) Notifying the Administration 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.

1031.6 HAZARDS

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

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All significant actions taken and dates they are completed shall be documented on an Identified Hazards and Correction Record form. This form should be forwarded to the Administration Lieutenant via the chain of command.

The Administration Lieutenant will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

1031.7 INSPECTIONS

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

The Administration Lieutenant shall ensure that the appropriate documentation is completed for each inspection.

1031.7.1 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.

1031.8 INVESTIGATIONS

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.
- (g) Completion of an Investigation/Corrective Action Report form.
- (h) Completion of an Identified Hazards and Correction Record form.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Occupational Disease and Work-Related Injury Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

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1031.9 TRAINING

The Administration Lieutenant should work with the Support Services Lieutenant 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.

1031.9.1 TRAINING TOPICS

The Support Services Lieutenant shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of bloodborne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.
- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.

1031.10 RECORDS

Records and training documentation relating to illness and injury prevention will be maintained in accordance with the established records retention schedule.

Anti-Retaliation

1032.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

1032.2 POLICY

The Montclair Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1032.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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1032.3.1 RETALIATION PROHIBITED FOR REPORTING VIOLATIONS

An officer shall not be retaliated against for reporting a suspected violation of a law or regulation of another officer to a supervisor or other person in the Department who has the authority to investigate the violation (Government Code § 7286(b)).

1032.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Personnel Officer.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1032.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

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- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

1032.6 COMMAND STAFF RESPONSIBILITIES

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

1032.7 WHISTLE-BLOWING

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

- (a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.
- (b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.
- (c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.
- (d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.
- (e) Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to Command Staff for investigation pursuant to the Personnel Complaints Policy.

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1032.7.1 DISPLAY OF WHISTLE-BLOWER LAWS

The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

1032.8 RECORDS RETENTION AND RELEASE

The Records Supervisor shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1032.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

Police Explorer Program

1033.1 PURPOSE AND SCOPE

The purpose of the Montclair Police Explorer Program is to provide qualifying juveniles and young adults who may be interested in a career in law enforcement, with a nexus to the City of Montclair, with a comprehensive volunteer experience including training, competition, service and practical experiences. Character development, physical fitness, good citizenship and patriotism are integral components of the overall program. Through their involvement in the program, Police Explorers develop an awareness of the purpose, mission and objectives of law enforcement agencies.

The mission of the Montclair Police Department Explorer Program is to stimulate interest and education in law enforcement practices, follow the Law Enforcement Code of Ethics, promote self-confidence and responsibility, leadership development, and to provide specific services to the community.

1033.2 EXPLORER POST REQUIREMENTS

The Montclair Police Department Explorer Program is open to ages 14 through 20. Eligibility standards include completion of the following:

- (a) Attend a Montclair Police Department Information Meeting, to include parent(s) or guardian(s) of any Explorer applicant under the age of 18.
- (b) Pass an Oral Interview.
- (c) Submit a City of Montclair Volunteer Application.
- (d) Must undergo a DOJ/FBI fingerprint clearance and pass a background review to assess character and integrity.
- (e) Waivers to include a hold harmless and volunteer statement of understanding release for the Montclair Police Department and City of Montclair must be executed by the parents or legal guardian and/or the Explorer if of legal age to sign such a form.
- (f) Must have and maintain a minimum of a 2.0 cumulative grade point average (GPA), if applicable.
- (g) Must complete the six-month introductory period.
- (h) Must complete the Police Explorer Academy within one year of appointment (Postponement may be approved based on the circumstances).
- (i) Participate in Explorer activities and scheduled meetings.
- (j) All Explorers reaching age 21 will be required to end their involvement in the program.

Upon entering the Police Explorer program, a Volunteer Portfolio will be prepared. The Portfolio will include:

- (a) Explorer Checklist
- (b) Summary of Employment
- (c) Explorer Ride-Along Checklist Certification

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- (d) Explorer issued equipment
- (e) Explorer and/or parental consent forms
- (f) Explorer and/or parental waivers
- (g) Commendations and disciplinary memorandums
- (h) Semester grades from school updated every six months (if applicable)
- (i) Time sheets to monitor volunteers dates and hours worked
- (j) Any other relevant future documents

1033.3 ORGANIZATION AND COMMAND STRUCTURE

For purposes of the Explorer Program Policy, the term "leader" refers to any sworn member of the Police Explorer Program. The term "participant" refers to all volunteer Explorers, regardless of their rank or age. The manager of the Explorer Program will be the assigned lieutenant. The Post shall have one Explorer Coordinator, which will be the assigned sergeant in charge of the program.

The Explorer Advisors shall report to the Explorer Sergeant in charge of the Explorer Program. The Post may have as many Advisors as deemed necessary to effectively operate the Post. All members of the staff shall be full-time, Montclair Police Officers. The Advisors will serve as mentors for each Explorer and are responsible for the daily operation of the Explorer Post. Advisors will lead scheduled meetings and schedule training approved by the Explorer Coordinator appropriate for the development of the Explorers. Advisors will monitor each Explorer's progress through the program and ensure that each Explorer is maintaining standards to remain active within the Explorer Post.

The Explorer Program Coordinator and Manager may approve other full-time members of the Montclair Police Department as Adult Leaders within the program, who possess technical skills beneficial to the program's success. They will only be supplemental to the required Advisory staff participation and may participate in providing training in their specialties at regularly scheduled meetings. Anything beyond this involvement, such as supplemental participation in outings, will require them to complete the same Youth Protection Training scheduled by the Explorer Program Coordinator.

All new Police Explorers shall be in an introductory status for a minimum of six months upon their entry into the Post, and their rank/title will be "Explorer Recruit." Explorer Recruits must attend all training sessions and meetings during this initial period, unless excused in advance by an Advisor.

Explorer Recruits shall attend one of the next scheduled Basic Explorer Academies. If an Explorer Recruit cannot attend the scheduled training, they must apply for an extension by submitting a memorandum in advance of the upcoming academy, outlining their justification for requesting postponement, including their plan for future completion. The memorandum will be forwarded to the Explorer Program Sergeant, via Chain of Command, to determine whether postponement will be granted. If approved, the Explorer Recruit will be required to attend the next available Explorer Academy session. Failure to complete this process may result in removal from the program. All

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new Explorers will maintain the rank/title of "Explorer Recruit" until they complete a Basic Explorer Academy. Upon successful completion, their rank/title will be changed to "Explorer."

The Explorer Post chain of command is a framework for membership that follows a traditional rank structure. It teaches Explorers responsibility, supervision, and cooperation. The chain of command gives the post an efficient method for communication and authority to flow from the lowest rank upwards to the top levels. The chain of command is as follows:

- (a) Chief of Police
- (b) Captain
- (c) Lieutenant (Manager of Explorer Program)
- (d) Sergeant (Coordinator of Explorer Program)
- (e) Explorer Advisor (Sworn Police Officer)
- (f) Adult Leaders (other full-time Police Department employees)
- (g) Explorer Sergeant
- (h) Explorer Corporal
- (i) Explorer
- (j) Explorer Recruit

1033.4 SCOPE OF ACTIVITIES

Typical types of patrol operations, calls for service and other law enforcement assistance that trained Explorers can provide with relatively minimal risk include, but are not limited to:

- (a) Crime prevention services
- (b) Community services such as special events or details
- (c) Citizen tours of police facilities
- (d) Agency information booth at career fairs and community events
- (e) Assistance with organized searches for lost/missing persons
- (f) Traffic control

There are numerous police operations and procedures that must not intentionally involve Explorers due to the considerable potential for legal complications or for an aggressive and risk inherent response. The officer who is responsible for the Explorer must use his/her best professional judgment with respect to the safety and security of the Explorer and should never intentionally place an Explorer in a high risk or legally precarious situation. Such operations and procedures which and Explorer should not conduct include, but are not limited to:

- (a) Conducting any type of arrests
- (b) Direct involvement with high-risk calls
- (c) Administer Breathalyzer/sobriety tests

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- (d) Custodial interviews or interrogations
- (e) Traffic or foot pursuits.
- (f) Searches & seizures
- (g) Conducting surveillance operations
- (h) Processing evidence or involved in the chain of custody of evidence
- (i) Field testing of narcotics or other controlled substances if such test is part of a criminal investigation
- (j) Handling intake or transfer of persons taken into custody.

1033.5 EXPLORER SAFETY

The following provisions have been adopted to provide security for youth; in addition, they serve to maintain proper and appropriate boundaries between Explorers and Department employees. Adherence to these provisions not only enhances the protection of participants but also ensures the values of the Department are preserved.

- (a) Two-deep leadership: A supervisor and minimally two Explorer Advisors are required on all trips and outings. Minimally, a female and male Advisor are required if the programs participants include both females and males. A minimum of two Explorer Advisors are required for all meetings.
- (b) No one-on-one contact: Private one-on-one contact between adults and youth participants is not permitted, except during an authorized Ride-Along. Personal conferences must be conducted in plain view of others. Minimally two Advisors will be included in any electronic communications such as text messaging or emails, when the communication is with Explorer participants.
- (c) Respect of privacy: Adult leaders must respect the privacy of participants in situations such as changing clothes or taking showers. They must also protect their own privacy in similar situations.
- (d) Male and female leaders require separate sleeping quarters: Married couples may share the same quarters if appropriate facilities are available. Male and female youth participants will not share the same sleeping quarters.
- (e) Separate accommodations: When camping or staying in a hotel, no youth is permitted to sleep in the same tent or room with an adult or member of the opposite sex, other than their parents or guardians.
- (f) If separate shower and bathroom facilities are not available, separate times for male and female, adults and youth, will be scheduled.
- (g) Proper preparation for high-adventure activities: Activities with elements of risk should never be undertaken without proper preparation, equipment, supervision, and safety measures, and will need prior approval from the Explorer Program Coordinator and Manager.

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- (h) No secret organizations: There are no secret organizations allowed and all aspects of the Police Explorer program are open to observation by parents, guardians, and leaders.
- (i) Appropriate attire: Proper clothing for activities is required.
- (j) Constructive discipline: Discipline in the Police Explorer Program should be constructive and reflect the program's underlying values. Corporal punishment is never permitted.
- (k) Hazing prohibited: Physical or emotional hazing and initiations are prohibited.
- (l) Police Explorers (whether or not in uniform) are not permitted to drive marked police vehicles or other motorized police conveyances. The exception to this policy is when Explorers are participating in an authorized training program or competition, are licensed to do so, and are under the direct, onsite, supervision of a law enforcement officer or Explorer Advisor/Coordinator.
- (m) Police Explorers are prohibited from directly or indirectly engaging in covert operations (i.e., serving in an undercover capacity) and should not be used as confidential informants or sources. These activities are fraught with potential legal complications and are risk inherent for the agency and the Explorer.
- (n) Explorers may be authorized to participate in designated firearms training under the strict supervision of the Advisor(s) and Department Firearms Instructors. The ratio of instructors to Explorers should be no more than one to one while the Explorer is in possession of a firearm. The Explorer Coordinator must individually approve each Explorer's participation in firearms training. The Explorer must also sign a release of liability, including Parental, or guardian, approval for minors.
- (o) Training, Youth Protection, and Supervision: The Police Explorer Program Coordinator will be responsible for monitoring and scheduling appropriate training on youth protection for members of the Police Explorer Program, to include Adult Leaders and Explorer participants. The youth protection issues portion of the training will emphasize assertive and practical ways in which an Explorer can prevent and stop inappropriate behavior from adults or other Explorers.

Transportation to and from Planned Outings: Outings are trips or meetings that occur at places other than the usual group/post meeting location and require preplanning of transportation. Outings may have an overnight component and planning should include:

- (a) Plan a daily destination point.
- (b) Meet for departure at a designated area.
- (c) Prearrange a schedule for periodic checkpoint stops as a group.
- (d) A common departure site and daily destination point are a must. If you cannot provide two adults for each vehicle, the minimum required is one adult and two or more youth participants, never one on one.

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1033.6 CODE OF CONDUCT

Explorers should remember that whether on or off-duty, their actions reflect upon the Montclair Police Department. Whether in a post-sponsored social activity or on-duty, Explorers shall always act so as not to bring discredit to themselves or the Department and shall adhere to the following:

- (a) Explorers will be orderly, attentive and will exercise patience and discretion when dealing with the public.
- (b) Explorers shall avoid treating Advisors like their peers and be respectful at all times.
- (c) Explorers will be permitted restricted access to the Police Department facility as well as department equipment. Any and all access or use of department equipment must be approved through their respective supervisor.
- (d) Explorers are required to complete and achieve a passing score on a CLETS/ NCIC Telecommunications Proficiency Examination, and read and sign a CLETS statement form prior to operating or having access to the CLETS terminals, equipment or information. The form addresses the confidentiality, release, and misuse of information. The form must be signed annually.
- (e) Explorers will obey all laws. Violation of any law may be cause for disciplinary action including dismissal.
- (f) All information obtained during the course of being an Explorer, including verbal and written communication, must be kept strictly confidential. This includes the prohibition of sharing of any information via social networking sites, email, etc. Additionally, intelligence information is not to be removed from the Police Department (i.e., bulletins, reports, etc.). Sharing or distribution of any information outside of Police Department is prohibited and will result in the immediate termination of volunteer duties as well as any possible criminal penalties.
- (g) Use of equipment by Explorers will be restricted to official use during on-duty hours. This includes but is not limited to department computers, radios, office supplies and equipment. Inappropriate and/or personal use of department equipment is prohibited and will result in the immediate termination of volunteer duties as well as any possible criminal penalties.
- (h) Upon separation from the Explorer program, all issued department equipment will be returned to an Explorer Advisor or their designee.
- (i) Explorers shall not impersonate a police officer or imply through appearance or action that they have any law enforcement authority beyond that of a private person.
- (j) Explorers shall report any type of off-duty contact with any law enforcement officer to their Advisor, or Explorer Program Coordinator, as soon as practicable. This includes contacts for traffic violations, criminal investigations, field interviews and any time the Explorer is a reporting party or witness in any police matter. Any failure to promptly notify an Advisor or Explorer Program Coordinator is cause for immediate dismissal from the Post.
- (k) Explorers shall address all Department personnel in a courteous manner, using rank or title and their last name unless otherwise instructed by the individual Department member.

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- (l) Explorers will perform their assigned duties to the best of their abilities.
- (m) Members will arrive at their assignments on time, dressed in proper attire and ready for the activity at hand.
- (n) Explorers will promptly obey any lawful orders of a superior officer. Any Explorer who refuses to obey a lawful order will be considered insubordinate. Should any lawful order given by a superior conflict with any previous order or published directive, the Explorer will respectfully bring this conflict to the attention of the superior.
- (o) Personal relationships, such as dating or any other intimate relationships, between adult leaders and Explorer participants are prohibited. Explorers are encouraged to keep personal relationships and dating outside of the Explorer Post and the Department. Dating or other non-business related contact between Explorers and their adult leaders or other affiliated adults is not permitted.
- (p) Explorers will comply with all other applicable sections under the Montclair Police Department Policy governing "Standards of Conduct."

1033.7 RIDE-ALONGS

The objectives of the Ride-Along in the Explorer program is to offer qualified Explorers the opportunity to accompany a police officer on patrol, to observe and gain practical experience with regard to the methods and techniques used in patrol operations and related services. This program also provides Explorers with valuable knowledge of the challenges and benefits of patrol operations and a better understanding of the importance of police services within the City of Montclair. In order to qualify, the Explorer shall have completed and passed all of the following:

1. The Ride-Along Checklist/Certification: Prior to the approved Ride-Along, the Checklist/Certification will be signed-off by an Advisor and the Explorer Program Coordinator, which includes:
 - (a) California Law Enforcement Telecommunications (CLETS) test.
 - (b) Department's Radio, Streets, and Hundred Block tests
 - (c) Citation, Field Interview (FI), Alarm Card, and CHP 180 completion
2. Verify the parent or legal guardian, and/or the Explorer if of legal age to do so, has signed a hold harmless and release form acknowledging they have been advised of the risk potential and waive any right to initiate a legal cause of action against the City of Montclair, the Department, or any of their representatives (Explorer Ride-Along Waiver).
3. Verify the parent or legal guardian, and/or the Explorer if of legal age to do so, signed a medical release form authorizing Montclair Police Department representatives to approve emergency medical treatment (Explorer Consent to Medical Treatment Waiver).
4. Familiarization training on all patrol vehicle systems and equipment.

The Department recognizes the potential risks to participants involved with Explorer activities, to include personal injury and/or inadvertent involvement with dangerous situations. The Department will make every effort to minimize risk to Explorers participating in the Ride-Along Program through

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training, supervision, adherence to policy and standard operating procedures, and proactive risk management. Advisors will be responsible for coordinating a Ride-Along with the Watch Commander. A maximum of one Explorer will be allowed to ride along per shift. The on-duty Watch Commander has the discretion to deny any Explorer's scheduled ride along for any reason. The following is a list of protocols for those qualified to participate in the Department's Ride-Along Program, and may be in addition the qualifications above:

- (a) For Explorers under the age of 18, the assigned supervising officer will be an active Explorer Advisor and should be of the same gender.
- (b) Explorers under the age of 18 may not accompany officers on a Ride-Along between the hours of 10:00 p.m. and 6:00 a.m.
- (c) Explorers will report for their Ride-Along at least 15 minutes before their scheduled time in their complete uniform and with the required equipment.
- (d) All Explorers, including Explorer Recruits, will be required to participate in a minimum of one ride along every four months annually.
- (e) In order to ensure all Explorers have the opportunity to participate in the Ride-Along Program, Explorers and Explorer Recruits shall not participate in more than one Ride-Along per month, unless approved by the Explorer Program Coordinator.
- (f) Explorer Recruits will wear professional business attire and may wear a protective vest under their clothing. They are only to ride as an observer and should not be assigned any tasks.
- (g) Explorers will report for a Ride-Along in a Class "B" uniform. Explorers will have other uniform items as dictated by weather or other factors such as a rain jacket. Explorers will have with them a notepad and pen, and an equipped duty belt with a flashlight, radio, and set of handcuffs. Explorers should wear a protective vest and will have in their possession an approved reflective vest.
- (h) Explorers may not carry an offensive or defensive weapon, such as a firearm, Taser, nightstick, baton (collapsible or otherwise), sap, sap gloves, tactical flashlight, knife, chemical repellent, or electrical shock device.
- (i) At the completion of the Ride-Along, the Explorer Advisor/Officer will ensure the Explorer logs in their hours on their time sheet, which will include the name of the Advisor/Officer they were assigned to.
- (j) Explorers may not use any electronic device such as a cellular phone, or engage in any other behavior that would distract the supervising officer or interfere with the objectives of the Ride-Along program. The only exception to this policy is the use of a cellular phone, or other communication device, in an emergency.
- (k) Due to potential legal issues with federal and state statutes regulating criminal law and procedure, civil law, and privacy and confidentiality concerns, Explorers are not permitted to participate in interviews, interrogations, the handling or processing of evidence, or the intake or transfer of persons taken into custody.

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- (l) At all times during a Ride-Along, The Explorer is under the direct supervision of the officer with whom they are assigned to ride with. Explorers shall obey all officer's lawful orders and instructions and shall not refuse any lawful request made by an officer.
- (m) The Explorer shall to the extent possible, remain in or at the patrol vehicle as an observer during a Ride-Along during enforcement stops. As an example, Explorers are not to conduct vehicle approaches during traffic stops, or stand within close proximity to subjects during field contacts initiated by officers.
- (n) Explorers, as directed by the supervising officer, may assist with telecommunications, traffic control, perimeter control not involving the containment of suspect(s), completion of incident report forms, or any other activity that is low-risk for the Explorer.
- (o) Due to the considerable potential for legal complications or for an aggressive or risk inherent response, Explorers are prohibited from participating in arrests; felony-in-progress calls; high-speed traffic pursuits; foot pursuits; domestic crisis calls; civil unrest or drinking establishment disturbances; sobriety tests or any other high risk or legally precarious situation. Should, during the course of a Ride-Along, the supervising officer have enough advance notice of a high risk or legally precarious call as it relates to the Explorer, he/she will transport the Explorer to a safe location or make arrangements for the Explorer to be transported to a safe location.
- (p) High Risk Call Procedure: Law enforcement, by its very nature, has moments of extreme danger. Situations will arise where the Explorer shall be dropped off at a safe location. The escorting officer shall notify dispatch that the Explorer has been dropped off and the location. The Explorer shall be picked up by the first available officer or employee. If a call for service is deemed high risk and a drop off is not feasible, the Explorer shall stay in the patrol car during the call unless it is unsafe to do so

1033.8 HARASSMENT IN THE WORK PLACE

The Montclair Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023).

For specific policies and procedures relating to Discriminatory Harassment and its reporting, refer to the Discriminatory Harassment Policy.

1033.9 DISCIPLINE AND DISMISSAL

Any Explorer, who fails to abide by these policies, or any other rule, policy, standard or expectation of the Department, may be disciplined or dismissed from the Explorer program in the sole discretion of the Department. Employees who are dismissed from the program may submit a letter of appeal to the Traffic Bureau Lieutenant who oversees the Explorer Program, whose decision to uphold or overturn the dismissal will be final and binding.

Upon termination of an Explorer for any reason, the Explorer will return all department property. Such property includes, but is not limited to, patches, badges, uniforms, equipment, identification cards and documents / manuals of the Department or Post.

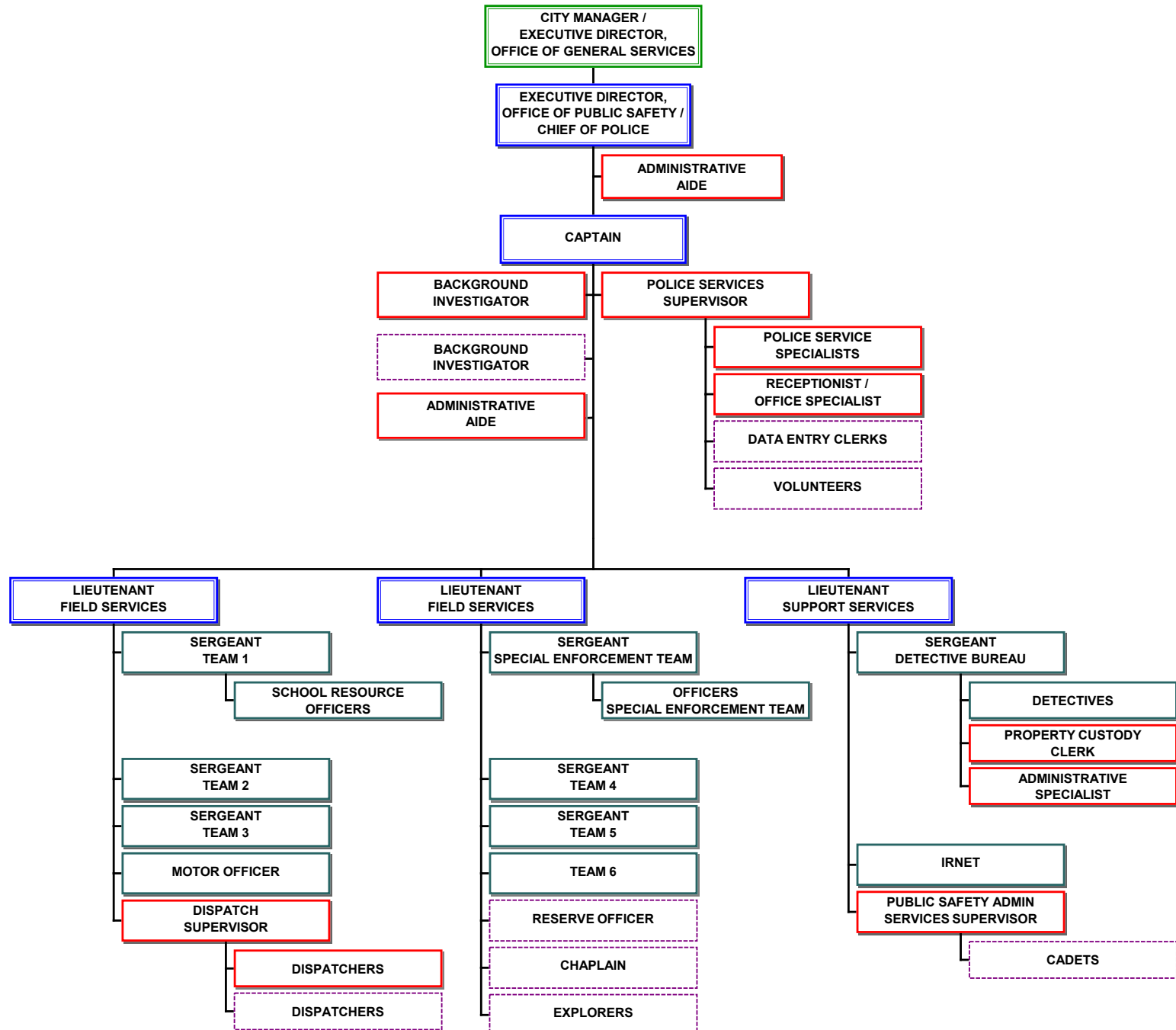
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Attachments

Police Org Chart.pdf

POLICE DEPARTMENT



Military Equipment List 10-23.pdf

Montclair Police Department

Military Equipment List

1. Armored Personnel Carrier, vehicle with entry apparatus attached (Category 3)

a. Quantity, Description, Capabilities, and Purchase Cost:

2023 Lenco BEARCAT G3 cost: approximately \$336,000, quantity: 1. The Lenco Bearcat G3 is an armored vehicle that seats 10-12 personnel with open floor plan that allows for rescue of downed personnel or civilians. The BearCat G3 includes a heavy-duty upgraded suspension system, off-road tires and run flats, to provide enhanced off-road performance. The increased ground clearance and robust suspension allows for emergency response in rural regions and natural disaster scenarios. It can stop various projectiles, which provides greater safety to the community and officers beyond the protection level of shield and personal body armor, and is equipped with a hydraulic ram breaching system.

b. Purpose:

To be used in response to critical incidents to enhance officer and community safety, improve scene containment and stabilization, assist in resolving critical incidents, or display at a community events.

c. Authorized Use:

The use of armored vehicles shall only be authorized by a Watch Commander, based on the specific circumstances of a given critical incident. Armored vehicles shall be used only by officers trained in their deployment and in a manner consistent with Department policy and training.

d. Expected Lifespan:

Approximately 25 years

e. Fiscal Impact:

Annual maintenance cost estimated between \$0 and \$1000 annually

2. Armored Personnel Carrier, vehicle with entry apparatus attached (Category 2)

a. Quantity, Description, Capabilities, and Purchase Cost:

One (1) "Peacekeeper" brand Armored Rescue Vehicle, Cadillac Gage Peacekeeper, built on a 1980 Dodge chassis; Cost: Obtained through the California State Agency for Surplus Property in 2002 as non-operable, and refurbished through donations by various local vendors; The Peacekeeper is designed to provide ballistic protection during tactical events (designed to withstand multiple bullet strikes from small arms fire as well as low level explosions). Equipped with emergency lights/siren and a public address system. Common uses for the Peacekeeper include citizen and officer rescues, evacuations, and the deployment of officers and approved equipment. The

Peacekeeper is a regional mutual-aid asset that has been requested and deployed to surrounding cities as well as public community outreach events for display.

- b. **Purpose:**
To be used in response to critical incidents to enhance officer and community safety, improve scene containment and stabilization, assist in resolving critical incidents, or display at a community event that is taking place.
- c. **Authorized Use:**
The use of armored vehicles shall only be authorized by a Watch Commander based on the specific circumstances of a given critical incident. Armored vehicles shall be used only by officers trained in their deployment and in a manner consistent with Department policy and training.
- d. **Expected Lifespan:**
Approximately 25 years
- e. **Fiscal Impact:**
Annual maintenance cost estimated between \$0 and \$1000 annually

3. **Command and Control Vehicles (Category 5)**

- a. **Quantity, Description, Capabilities, and Purchase Cost:**
One (1) Model Year 2014 "Ultra Haulers" brand Command Trailer; Cost: \$37,286,. The Command Trailer is a mobile command post and an equipment storage trailer. Computerized screen used for tracking operations or projecting public information on the exterior. Desk with radios for dispatch on the interior. Several storage areas for the different equipment used by department members. Water, generator, tables, chairs and televisions.
- b. **Purpose:**
To be used based on the specific circumstances of a given critical incident, large event, natural disaster, or display at a community event that is taking place.
- c. **Authorized Use:**
The Command Trailer shall be used by officers trained in it deployment and in a manner consistent with Department policy and training. The driver of the vehicle towing the trailer shall have a valid California driver's license.
- d. **Expected Lifespan:**
25 Years
- e. **Fiscal Impact:**
Annual maintenance cost estimated between \$0 and \$1000 annually.

4. **Specialized Firearms and Ammunition (Category 9)**

- a. **Quantity, Description, Capabilities, and Purchase Cost:**
Twenty-four (24) Colt Carbine Rifle LE6945CQB, and five (5) personally owned (P/O) rifles including one (1) Daniel Defense M4V7 SLW, three (3) Geissele Automatics SD-556, and one (1) Bravo Company Manufacturing BCM4 firearm,

all capable of accurately stopping an armed subject at various distances. The Colt Carbine and approved P/O rifles are lightweight, air-cooled, gas operated, magazine fed, shoulder fired weapons, designed for semi-automatic fire. The Colt Carbine and P/O rifles do not have an expiration and will need to be serviced or replaced when the rifle fails or breaks. The 5.56 NATO cartridge is used as a lethal option designed to stop a violent encounter. The projectile is capable of penetrating soft body armor worn by armed subjects. Cost: The purchase of the rifles was a "\$0" cost in 2015, as the Department was credited for an exchange of previously owned rifles. Optics for \$9,795 and suppressors for \$7,694 were purchased to make the rifle patrol ready. P/O rifles are maintained by the member and serviced and/or replaced at their own cost.

- I. The Hornady 5.56 NATO, 75 grain, BTHP T2 Tap Precision cartridge is the primary duty ammunition deployed during potential lethal encounters.
- b. **Purpose:**
To be used as precision weapons to address a threat with more precision and/or at greater distances than a handgun, if present and feasible within Department Policy and Applicable Law
- c. **Authorized Use:**
Only members that are POST certified Peace Officers, and have completed the POST Firearms / Tactical Rifle Course
- d. **Expected Lifespan:**
 - I. Carbine Rifle – No expiration.
 - II. The Hornady 5.56 NATO, 75 grain BTHP T2 TAP – No expiration.
- e. **Fiscal Impact:**
 - I. Carbine Rifle – Annual cost between \$0 - \$1000.
 - II. The Hornady 5.56 NATO, 75 grain BTHP T2 TAP– Annual cost between \$0 - \$1,380 for all rifles combined, duty ammunition, excluding training rounds.

5. **Tear Gas (Category 12)**

- a. **Quantity, Description, Capabilities, and Purchase Cost:**
Various Quantities of Chemical agent munitions, which are commonly referred to as "tear gas," are used by the Montclair Police Department as a non-lethal tool to disperse rioting suspects and on barricaded suspects per Montclair Police Department Policy and applicable law. The Montclair Police Department uses chemical agents which are used by law enforcement across the United States: CS (2 Chlorobenzylidenemalononitrile) and OC (Oleoresin Capsicum). CS is an irritating agent and lachrymator (irritates the eyes and causes tears to flow). CS has been medically tested in the UK and US, specifically by the U.S. Army. There are no known allergic reactions to CS. OC was de-regulated in California in 1996, is endorsed by the FBI, and is available to civilians to legally possess (2.5 oz. or less). OC is an inflammatory agent which causes involuntary closure of eyes (open in 2-5 minutes) and respiratory inflammation (subsides in approximately 2 minutes).

- I. Pocket Tactical SAF-Smoke White™ – Pyrotechnic grenade emitting non-irritant SAF Smoke through multiple emission ports for 20 to 30 seconds to cover small areas. May be launched or hand-thrown Cost: \$17.50 per munition.
- II. SAF-Smoke White™ – Pyrotechnic grenade emitting non-irritant SAF Smoke through multiple emission ports for 30 to 40 seconds to cover large areas. May be launched or hand-thrown Cost: \$33.83 per munition.
- III. 8230 – Pyrotechnic canister grenade emitting CS smoke through multiple emission ports for 20 to 30 seconds. May be launched or hand-thrown. Cost: \$17.50 per munition.
- IV. 9230 – The 9230 CS Jet-Lite Rubber Ball Grenade is one of the smaller diameter burning grenades that discharges a high volume of chemical agents through multiple emission ports. Can be hand thrown. Cost: \$29.26 per munition.
- V. 9590 – Stinger™ 32-Caliber Rubber Balls is designed to deliver rubber pellets from a handheld rubber ball grenade to disperse the intended target. Cost: \$56.80 per munition.
- VI. Spede-Heat SAF Smoke™ 40mm Short Range Round incorporates an aluminum shell and utilizes black powder as the propellant. The Spede-Heat™ 40mm Short Range Round is designed to deliver one dual-ported chemical canister from a 40mm launcher 75 yards to the intended target zone. Cost: \$26.40 per munition.
- VII. 4558 – 40mm Short Range Rubber Pellets incorporates an aluminum shell and utilizes black powder as the propellant. The 4558 40mm Short Range Round is designed to deliver 60 caliber rubber pellets from a 40mm launcher at close range to disperse the intended target. Cost: \$25.60 per munition.
- VIII. 4233 – 40mm Short Range CS Round incorporates an aluminum shell and utilizes black powder as the propellant. The 4233 40mm Short Range Round is designed to deliver three multi-ported chemical canisters from a 40mm launcher 75 yards to the intended target zone. Cost: \$40.05 per munition.
- IX. 5231 – CS Pyrotechnic grenade emitting CS smoke through three chemical canister that discharges a high volume of chemical agents through multiple emission ports to the intended target zone. Cost: \$34.61 per munition.

b. **Purpose:**

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less-lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot/crowd control and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

c. **Authorized Use:**

Only officers who have received POST certification or manufacturer-specific training in the use of chemical agents are authorized to use chemical agents.

d. **Expected Lifespan:**

- I. Pocket Tactical SAF-Smoke White™ – 5 years
- II. SAF-Smoke White™ – 5 years
- III. 8230 – 5 years
- IV. 9230 – 5 years
- V. 9590 – 5 years
- VI. Spede-Heat SAF Smoke™ 40mm – 5 years
- VII. 4558 – 5 years
- VIII. 4233 – 5 years
- IX. 5231 – 5 years

e. **Fiscal Impact:**

- I. Pocket Tactical SAF-Smoke White™ – Estimated between \$0 and \$140 annually.
- II. SAF-Smoke White™ – Estimated between \$0 and \$271 annually.
- III. 8230 – Estimated between \$0 and \$140 annually.
- IV. 9230 – Estimated between \$0 and \$234 annually.
- V. 9590 – Estimated between \$0 and \$341 annually.
- VI. Spede-Heat SAF Smoke™ 40mm – estimated between \$0 and \$211 annually.
- VII. 4558 – Estimated between \$0 and \$213 annually.
- VIII. 4233 – Estimated between \$0 and \$641 annually.
- IX. 5231 – Estimated between \$0 and \$347 annually.

6. **PepperBall Launcher (Category 12)**

a. **Quantity, Description, Capabilities, and Purchase Cost:**

Four (4) Pepperball Patrol Carbine (PPC) Launchers. In July 2022, the PPC Launchers were purchased through Pepperball Inc. for \$5,618.65. The PPC Launchers are lightweight and portable designed to give patrol officers an easy to operate non-lethal option to deploy .68 caliber round or VXR projectiles that deliver PAVA powder, MAXSAICIN PAVA powder, inert powder, paint solution, or solid composite projectiles (similar to a paintball delivery system). The PPC Launcher is powered by either High-Pressure Air (HPA) or an 88-gram single use CO2 cartridge. The system is capable of launching projectiles at a subject of a distance up to 150 feet and area saturation up to 390 feet. It is a non-lethal option for law enforcement officers to deliver chemical agents and 8–15 j of kinetic energy impacts to subjects in a potentially violent encounter. It is a de-escalation tool used to avoid further injuries or lethal options on a subject; Cost: \$990 per launcher

- I. PepperBall LIVE PROJECTILE, The basic PepperBall projectile contains 2.5 grams of PAVA powder, and is designed for direct impact and area saturation, especially in confined, interior spaces. Discharged from a PepperBall Launcher, the projectile has a velocity of 280-300 feet per second (FPS). The projectile has a direct impact of 60 feet and an area of saturation of 150 + feet. The projectile contains 2% PAVA powder; Cost \$967 (300 Count).
- II. PepperBall LIVE-X PROJECTILE, A PepperBall projectile contains 2.5 grams of PAVA powder, and is designed for direct impact and area saturation, especially in confined, interior spaces. Discharged from a PepperBall Launcher, the projectile has a

velocity of 280-300 feet per second (FPS). The projectile has a direct impact of 60 feet and an area of saturation of 150 + feet. The projectile contains 5% PAVA powder; Cost \$322 (90 Count).

- III. PepperBall Marking PROJECTILE, A PepperBall projectile contains 2.5 grams of paint solution that can be used to mark suspects for later apprehension and/or marking doors, openings, or objects for identification, and is designed for direct impact. Discharged from a PepperBall Launcher, the projectile has a velocity of 280-300 feet per second (FPS). The projectile has a direct impact of 60 feet and an area of saturation of 150 + feet. The projectile contains 2% PAVA powder; Cost: \$81 (90 Count).
- IV. PepperBall INERT PROJECTILE, A PepperBall projectile contains 2.5 grams of inert powder Containing a harmless, scented powder. This projectile is best suited for training, qualifications, and direct impact when chemical exposure is not desired. Discharged from a PepperBall Launcher, the projectile has a velocity of 280-300 feet per second (FPS). The projectile has a direct impact of 60 feet and an area of saturation of 150 + feet. The projectile contains inert powder; Cost \$323 (300 Count).
- V. PepperBall Glass Breaker Projectiles, a solid projectile used to shatter windows only. Discharged from a PepperBall Launcher, the projectile has a velocity of 280-300 feet per second (FPS); Cost: \$27 (10 Count).

b. **Purpose:**

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable. Situations for use of the less-lethal weapon systems may include but, are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot/crowd control and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

c. **Authorized Use:**

Only those officers who have been trained in the use of PepperBall launchers are authorized to use the PepperBall launchers.

d. **Expected Lifespan:**

- I. PepperBall Launcher – No expiration
- II. Live Projectile – 3 years
- III. Inert Projectiles – 3 years
- IV. Marking Projectiles – 3 years
- V. Glass Breaker Projectiles – No expiration

e. **Fiscal Impact:**

- I. PepperBall Launcher – Repairs estimated between \$0 and \$1000 annually.
- II. Live Projectile – Estimated between \$0 and \$967 annually.

- III. Inert Projectiles – Estimated between \$0 and \$200 annually
- IV. Marking Projectiles – Estimated between \$0 and \$400 annually
- V. Glass Breaker Projectiles – Estimated between \$0 and \$100 annually.

7. Projectile Launch platforms and associated munitions (Category 14)

a. Quantity, Description, Capabilities, and Purchase Cost:

Two (2) Defense Technology 40mm Single Launcher: Cost: Unknown, purchased @ 20 years ago. The Defense Technology 40mm Single Launcher is not a firearm, but a Less-Lethal launching system that uses smokeless powder to deliver 40MM projectiles from a safe distance. The Less-Lethal launcher is capable of launching 40MM munitions at a subject up to 40 yards. The Less-Lethal launcher is a single launcher, which allows the Officer to assess after every spent munition. Less-Lethal launcher does not have an expiration and will need to be serviced or replaced when the launcher fails or breaks.

- I. The 40MM munition is a Direct Impact Spin Stabilized Smokeless Sponge Munition. The Sponge Baton munition is used as a Less-Lethal weapon designed to de-escalate a potentially violent encounter; Cost: \$17.50 per unit.

b. Quantity, Description, Capabilities, and Purchase Cost:

Twenty-three (23) Remington 870 12 Gauge Multi-Shot Beanbag Launcher: Cost: Unknown, purchased over 25 years ago. The Remington 870 12 Gauge Multi-Shot Beanbag Launcher is a converted Remington 870 used as a Less-Lethal launching system. The launching system uses smokeless powder to deliver a 12 gauge 40-gram lead-filled cotton-ballistic fiber blend projectile from a safe distance. The Less-Lethal launcher is capable of launching munitions at a subject up to 75 feet. The Less-Lethal launcher is a pump-action launcher, which allows the officer to assess after every spent munition. Less-Lethal launcher does not have an expiration and will need to be serviced or replaced when the launcher fails or breaks.

- I. ALS1212T – 12 gauge 40-gram lead-filled cotton-ballistic fiber blend stabilized bean bag munition is designed to produce blunt trauma and pain compliance. The bean bag munition is used as a Less-Lethal weapon designed to de-escalate a potentially violent encounter; Cost: \$1,117.

c. Purpose:

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.

d. Authorized Use:

Situations for use of the less-lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot/crowd control and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

e. **Expected Lifespan:**

- I. 40mm Launcher: No expiration
- II. 40mm Sponge Munition – 5 years
- III. Bean Bag Launcher – 5 years
- IV. Bean Bag Munitions – 5 years

f. **Fiscal Impact:**

- I. 40mm Launcher – Estimated between \$0 and \$1000 annually
- II. 40mm Sponge Munition – Estimated between \$0 and \$1000 annually.
- III. Bean Bag Launcher – Estimated between \$0 and \$1000 annually.
- IV. Bean Bag Munitions – Estimated between \$0 and \$1117 annually.

8. **Long Range Acoustic Device (Category 13)**

a. **Quantity, Description, Capabilities, and Purchase Cost:**

One (1). The Montclair Police Department shares a Genasys Systems Long Range Acoustic Device LRAD-1000 with the cities of Ontario, Chino, and Upland. The device is owned by the San Bernardino County Sheriff's Department. The device is a power-efficient, long-distance communication system designed for applications ranging from critical infrastructure protection, border and port security, and search and rescue applications. It features a rugged carbon fiber emitter head integrated with electronics and amplification has an extremely high decibel capacity. The device is used as a less-lethal weapon for crowd control and broadcasting emergency messages; Cost: \$0;

b. **Purpose:**

To limit the escalation of conflict where deployment of higher force is prohibited or undesirable.

c. **Authorized Use:**

Only Montclair officers who are trained in the use of the device shall be authorized to deploy the device. Situations for use of the less lethal weapon system may include, but are not limited to:

- i. Riot/crowd control and civil unrest incidents.
- ii. Circumstances where a tactical advantage can be obtained.
- iii. Training exercises or approved demonstrations.

d. **Expected Lifespan:**

- I. Long Range Acoustic Device: No expiration

e. **Fiscal Impact:**

- I. Long Range Acoustic Device: \$0 annually.

Missing Persons Reference Chart PDF.pdf

Required Action MP Age	"Be On the Look-Out" Bulletin	Initial Entry Into the DOJ Missing Person System (MPS)	Copy of MP Report Forwarded to Appropriate Jurisdiction	Obtain Dental and/or Skeletal X-Rays and Treatment Notes	Initial Coroner Check	MP Report with Photograph and X-rays Submitted to DOJ ¹	Written Notice Submitted to School	DNA- Advise Family of Right to Submit Sample ²	Validate and Update MPS Record
At Risk³ (Any Age)	Without Delay <i>PC § 14211(d)</i>	Within 2 Hours <i>PC § 14211(e)</i>	Within 24 Hours <i>PC § 14211(g)</i>	At 30 days <i>PC § 14212(d)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	If a child, within 10 Days <i>EC § 49068.6</i>	Within 30 Days <i>PC § 14250(c)(2)</i>	Within 60 days <i>NCIC Guidelines</i>
Ages 0 to 15	Without Delay <i>PC § 14211(d)</i>	Within 2 Hours <i>PC § 14211(e)</i>	Within 24 Hours <i>PC § 14211(g)</i>	Within 60 Days <i>PC § 14211(f)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Within 10 Days <i>EC § 49068.6</i>	Recommended After 30 days	Within 60 days <i>NCIC Guidelines</i>
Ages 16 to 17	Without Delay <i>PC § 14211(d)</i>	Within 2 Hours <i>PC § 14211(e)</i>	Within 24 Hours <i>PC § 14211(g)</i>	Within 60 Days <i>PC § 14211(f)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Within 10 Days <i>EC § 49068.6</i>	Recommended After 30 days	Within 60 days <i>NCIC Guidelines</i>
Ages 18 to 20	Without Delay <i>PC § 14211(d)</i>	Within 2 Hours <i>PC § 14211(e)</i>	Within 24 Hours <i>PC § 14211(g)</i>	Within 60 Days <i>PC § 14211(f)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Not Applicable	Recommended After 30 days	Within 60 days <i>NCIC Guidelines</i>
Ages 21 and over	Law Enforcement Discretion	Without Unreasonable Delay	Within 24 Hours <i>PC § 14211(g)</i>	Within 60 Days <i>PC § 14211(f)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Recommended Within 30 days <i>PC § 14212(g)</i>	Not Applicable	Recommended After 30 days	Within 60 days <i>NCIC Guidelines</i>

Senior and Disability Victimization Checklist.pdf



Montclair Police Department

Senior and Disability Investigation Checklist

In accordance with California Penal Code § 386.6(c)(8)(B), the following checklist is to be utilized by any MPD Officer conducting an investigation into an incident identified in the Senior and Disability Victimization Policy. This checklist provides a guide of minimal information to be gathered and/or considered during an investigation, and a supervisor should be contacted to assist with an investigation of this nature. 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).

Officers involved in Senior and Disability investigations shall take responsibility for the safety and well-being of potential victims and witnesses and treat all potential victims, witnesses, and suspects with dignity and respect. Some elders, adults, and children with cognitive or communication disabilities may have difficulty narrating events, appear to be poor historians, or lack short-term memory, which adds to their vulnerability and therefore requires officers to make special efforts to provide them with equal protection (PC 368.6(c)(23)(D)).

It is important to recognize that victim cooperation is sometimes unnecessary for prosecution, and that in some cases allowing victims the option of preventing prosecution creates an opportunity for the perpetrators to obstruct justice by pressuring or threatening the victims. Each call for service, even if involving the same persons as a prior investigation, should be investigated on its own evidential merits (PC 368.6(c)(23)(H)).

When investigating an incident referenced by the Senior and Disability Victimization Policy, review the subsections titled, "Investigations and Reporting," "Arrest Policy," "Interviews," and "Emergency Protective Orders." These sections identify additional requirements of investigating officers.

Senior and Disability Victimization Investigation Checklist

INITIAL INVESTIGATION

- ☐ Primary consideration should be given to the safety and security of the elder/dependent adult. If the victim is in need of emergency or immediate medical treatment, immediately ensure proper authorities are notified. Document whether or not the victim was transported for medical treatment or a medical examination
- ☐ Investigation and reports should address 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.

INTERVIEWS

- ☐ When possible, record all victim and suspect interviews with the applicable recording device.
- ☐ When interviewing potential victims, ascertain their state of mind and level of competency; documenting responses in the report. Be mindful to document any reliance on others in answering specific questions about the abuse.
- ☐ Document any relevant statements the victim may have made to others on scene, and to whom he/she made the statements (i.e. medical personnel, doctors, etc)
- ☐ Document thorough witness and suspect statements
- ☐ Has the victim identified a household member as the alleged perpetrator?
- ☐ List the names of any other potential victims or witnesses who may reside in the residence
- ☐ Conduct thorough interviews of caretakers, separately, recognizing that in some cases the caretaker is the perpetrator.
- ☐ Interview and list all possible witnesses, household members, neighbors, and even paramedics or other emergency personnel on scene who can provide critical details when the victim/s may be unable to communicate or articulate what occurred

FURTHER INVESTIGATION

- ☐ Identify any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known. Reference these investigations in your report

- ☐ List previous addresses of the victim in suspect in the narrative of the report, and lack of any if applicable
- ☐ Identify other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment
- ☐ Ensure to ask regarding financial information, even if the crime is not involving allegations of fiduciary abuse. If so, collect pertinent evidence such as checks, bank records, credit card statements, etc.
- ☐ Thoroughly document the scene including the condition of the living quarters, existence of essential HVAC, proper sleeping arrangements, existence of any hazards, essential electricity and water, and any other information pertinent to physical conditions effecting any possible victims
- ☐ Is there audio/video evidence? Prior to your report, review your own audio/video to accurately document statements
- ☐ Check premise and/or call history related to the elder or dependent adult including calls from mandated reporters or other individuals. Document these incidents or lack thereof in the narrative of the report
- ☐ Is the abuse related to a disability-bias hate crime and related bias motivations (PC368.6)? If so document and follow the "Hate Crimes" Policy as well for additional guidance
- ☐ Ensure mandatory notifications are followed per the "Mandatory Notification" subsection of the Policy.
- ☐ Ensure your investigation will be provided to those agencies (APS, long-term ombudsman) that referred or reported the elder or dependent adult abuse if entitled to such (WIC 15640(f)).
- ☐ When applicable, obtain a consensual signed medical release from potential victims. Extra care may be required to explain reasoning for such to the victim/s
- ☐ Document any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable
- ☐ Does the victim need to be taken into protective custody? If so, thoroughly document the reasons and why other alternatives were not appropriate, and the name and title of the person making the decision. Consult with a supervisor if seeking this option
- ☐ Is the victim gravely disabled, unable to care for themselves, and/or a danger to themselves? Is a responsible caregiver present? If not, adherence to the Mental Illness Commitments or other 5150WIC procedures

INVESTIGATIONS INVOLVING DEATH

- ☐ Did the death involve an End of Life Option Act? If so, document whether or not assistance was provided to the person beyond that allowed by law (H&S 443.14)
- ☐ Document 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 (H&S 443.17)
- ☐ Document whether coercion or undue influence was exerted on the person or request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (H&S 443.17)
- ☐ Document whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (H&S 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. Any 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 (PC 368.6(c)(18)).

CONCLUDING INVESTIGATION

- ☐ Ensure prior to the conclusion of the investigation that adherence to the Senior and Disability Victimization Policy have been met, in consultation with a supervisor
- ☐ Exhaust all possible leads prior to submitting report and/or referring to Detective Bureau

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.

Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf



POST HATE CRIMES MODEL POLICY



COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

2019

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FOREWORD

Hate Crimes (i.e. crimes motivated by bias) convey a message of terror and exclusion, not just to the immediate victims but to entire communities. They often target victims who are least able to defend themselves. They cause trauma that is more extreme and longer lasting than similar crimes committed for other motivations. They can spark retaliatory crimes, escalating the cycle of crime and violence. If not addressed professionally and thoroughly they may undermine public confidence in law enforcement.

The 2018 California State Auditor's Report, titled "Hate Crimes in California," found that California law enforcement has not taken adequate action to identify, report, and respond to hate crimes. The report found that agencies did not properly identify some hate crimes, and underreported or misreported hate crimes as well. The report also noted that hate crimes are on the rise in California, increasing in both 2015 and 2016.

California Penal Code (CPC) 422.87 added new language and requirements to any newly created or updated agency hate crimes policy. Effective January 1, 2019, any local law enforcement agency that updates an existing hate crimes policy, or adopts a new one, shall include the content of the model policy framework provided in this document as well as any revisions or additions to the model policy in the future.

These guidelines are the primary elements that law enforcement executives are now required to incorporate into their hate crimes policy if an agency creates a new hate crimes policy or updates an existing one. The guidelines are designed for department-wide application and are intended to reflect a values-driven "top-down" process. They are intended to assist with the development and delivery of training and ensure proper identification, investigation, and reporting of hate crimes within each agency's jurisdiction.

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POLICY GUIDELINES

GUIDELINE #1

Develop the foundation for the agency's hate crimes policy.

The law enforcement executive is responsible for providing leadership, communicating organizational values to the department and the community, paying attention to hate crime trends and current events that could trigger hate incidents and/or hate crimes in the community, and providing education and training to establish the foundation for the agency's hate crimes policy. Employees' ability to respond appropriately to hate crimes and hate incidents is maximized when the executive effectively establishes and communicates the foundational values of the organization.

GUIDELINE #2

Develop a hate crimes policy for the agency.

- I. An agency's hate crimes policy shall include the statutory definition of a hate crime, and its policy and programs should minimally include the following:
 - A. Response
 - B. Training
 - C. Planning and Prevention
 - D. Reporting

The law enforcement executive is responsible for the initial development of the policy and should be actively involved in its implementation. See the appendix for the exemplar "Message from the Agency Chief Executive".

GUIDELINE #3

Develop expertise to identify and investigate hate crimes.

The law enforcement executive is responsible for ensuring that the agency possesses expertise to identify and investigate hate crimes, as well as ensuring compliance with state and federal

reporting and public information requirements. Agencies should assign identified personnel to appropriate training to develop expertise and knowledge to investigate hate crimes.

Hate crimes are low-frequency events with high-risk consequences for the agency and community. Agencies shall provide a checklist to first responders to provide direction for the investigation of all hate crimes as mandated by CPC 422.87.

GUIDELINE #4

Develop and implement cooperative hate crimes plans with other law enforcement agencies.

- I. Coordinate cooperative efforts among regional, state, federal, and tribal law enforcement agencies to share information and training, and develop strategies to prevent hate crime activity.
- II. Develop and/or participate in law enforcement intelligence networks to enhance the agency's ability to anticipate potential hate crime targets. This interaction should include sharing intelligence information with other jurisdictions and cooperative investigations, arrests, and prosecutions if appropriate.

GUIDELINE #5

Develop and implement cooperative hate crime plans with the community and related governmental and non-governmental organizations, as appropriate.

- I. Collaborate with the community, including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools and colleges, to do the following:
 - Develop a network to build rapport with community groups

-
- Develop a protocol for response to hate crimes
 - Obtain witness and victim cooperation
 - Provide support services to victims
 - Collect demographic information about specific communities
 - Identify hate crime trends based upon current events and activity (hate crimes and/or hate incidents)
 - Identify periods of increased vulnerability based on significant dates and events for affected communities
- II. Law enforcement should identify and seek out cultural diversity training and information from/about specific communities within its jurisdiction (immigrant, Muslim, Arab, LGBTQ, Black or African American, Jewish, Sikh, disability, etc.) to strengthen agency awareness.
- V. Annual outreach to the community including human relations/civil rights organizations, advocacy groups, service organizations, neighborhood associations, religious institutions, local schools, and colleges assessing the agency's responsiveness to hate crimes.

GUIDELINE #6

Conduct an annual assessment of the agency's hate crimes policy and its ongoing implementation.

The assessment should include:

- I. A review to ensure compliance with the POST Hate Crimes Model Policy and California law.
- II. A review and analysis of the agency's data collection, policy, and annual mandated reporting of hate crimes.
- III. A review and updating of the agency's hate crimes brochure to ensure compliance with CPC 422.92.
- IV. A review of any existing or available data or reports, including the annual California Attorney General's report on hate crimes, in preparation for, and response to, future hate crime trends.

MINIMUM LEGAL REQUIREMENTS FOR AN AGENCY'S HATE CRIMES POLICY

CPC 13519.6, effective January 1, 2005, minimally requires:

1. A message from the law enforcement agency's chief executive officer to the agency's officers and staff concerning the importance of hate crime laws and the agency's commitment to enforcement.
2. The definition of "hate crime" in Penal Code section 422.55.
3. References to hate crime statutes including Penal Code section 422.6.
4. A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:
 - a. Preventing and preparing for likely hate crimes by, among other things, establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks.
 - b. Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.
 - c. Accessing assistance, by, among other things, activating the Department of Justice hate crimes rapid response protocol when necessary.
 - d. Providing victim assistance and follow-up, including community follow-up.
 - e. Reporting

CPC 422.87, effective January 1, 2019, states and minimally requires:

Each local law enforcement agency may adopt a hate crimes policy. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new one shall include, but not limited to, the following:

1. The definitions in Penal Code sections 422.55 and 422.56.
2. The content of the model policy framework that the Commission on Peace Officer Standards and Training developed pursuant to Section 13519.6 (above) and any content that the commission may revise or add in the future, including any policy, definitions, response and reporting responsibilities, training resources, and planning and prevention methods.
3. Information regarding bias motivation
 - a. For the purposes of this paragraph, "bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
 - i. In recognizing suspected disability-bias hate crimes, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse

fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

- ii. In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.
- b. Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes *and a plan for the agency to remedy this underreporting* (emphasis added).
- c. A protocol for reporting suspected hate crimes to the Department of Justice pursuant to Penal Code section 13023.
- d. A checklist of first responder responsibilities, including, but not limited to, being sensitive to effects of the crime on the victim, determining whether any additional resources are needed on the scene to assist the victim or whether to refer the victim to appropriate community and legal services, and giving the victims and any interested persons the agency’s hate crimes brochure, as required by Section 422.92.
- e. A specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.
- f. The title or titles of the officer or officers responsible for assuring that the department has a hate crime brochure as required by Section 422.92 and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- g. A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.
- h. Any local law enforcement agency that updates an existing hate crimes policy or adopts a new hate crimes policy may include any of the provisions of a model hate crime policy and other relevant documents developed by the International Association of Chiefs of Police that are relevant to California and consistent with this chapter.

MODEL POLICY FRAMEWORK

Purpose

This model policy framework is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how law enforcement agencies may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy.

Policy

It is the policy of this agency to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

This agency will employ necessary resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this agency should attend to the security and related concerns of the immediate victims and their families as feasible.

The agency policy shall include a requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.

The agency policy shall provide a specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.

Response, Victim Assistance and Follow-up

Initial response

First responding officers should know the role of all department personnel as they relate to the agency's investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance, and working with supervision and/or investigations, access needed assistance if applicable. Responding officers should ensure the crime scene is properly protected, preserved and processed.

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

1. Use agency checklist (per CPC 422.87) to assist in the investigation of any hate crime (see appendix, page 21, for exemplar checklist based on the Los Angeles Police Department Hate Crimes Supplemental Report with the agency's permission).

-
2. Stabilize the victim(s) and request medical attention when necessary.
 3. Ensure the safety of victims, witnesses, and perpetrators.
 - a. Issue a Temporary Restraining Order (if applicable).
 4. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
 5. Ensure that the crime scene is properly protected, preserved, and processed and that all physical evidence of the incident is removed as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to ensure that it is removed or covered up as soon as possible. Agency personnel should follow-up to ensure that this is accomplished in a timely manner.
 6. Collect and photograph physical evidence or indicators of hate crimes such as:
 - a. Hate literature.
 - b. Spray paint cans.
 - c. Threatening letters.
 - d. Symbols used by hate groups.
 7. Identify criminal evidence on the victim.
 8. Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
 9. Conduct a preliminary investigation and record pertinent information including, but not limited to:
 - a. Identity of suspected perpetrator(s).
 - b. Identity of witnesses, including those no longer at the scene.
 - c. The offer of victim confidentiality per Government Code (GC) 5264.
 - d. Prior occurrences, in this area or with this victim.
 - e. Statements made by suspects; exact wording is critical.
 - f. The victim's protected characteristics and determine if bias was a motivation "in whole or in part"¹ in the commission of the crime.
 1. "Bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.
 - (a) In recognizing suspected disability-bias hate crimes, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons

¹See Appendix, page 15, for definition

who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

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

10. Adhere to CPC 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
11. Provide information regarding immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.).
12. Provide the agency’s Hate Crimes Brochure (per CPC 422.92) if asked, if necessary or per policy (if applicable).
13. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
14. Report any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer (TLO), or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.

Investigation

Investigators at the scene of or while performing follow-up investigation on a suspected hate or bias crimes (or hate incident if agency policy requires it) should take all actions deemed necessary, including, but not limited to, the following:

1. Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
2. Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
3. Utilize proper techniques for interviewing people with disabilities and being aware of and providing appropriate accommodations (such as ADA standards, Braille, visuals, translators for the deaf or hard of hearing, etc.).
4. Fully investigate any report of hate crime committed under the color of authority per CPC 422.6 and CPC 13519.6.

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5. Collect and photograph physical evidence or indicators of hate crimes such as:
 - a. Hate literature.
 - b. Spray paint cans.
 - c. Threatening letters.
 - d. Symbols used by hate groups.
 - e. Desecration of religious symbols, objects, or buildings.
 6. Request the assistance of translators or interpreters when needed to establish effective communication.
 7. Conduct a preliminary investigation and record information regarding:
 - a. Identity of suspected perpetrator(s).
 - b. Identity of witnesses, including those no longer at the scene.
 - c. Offer of victim confidentiality per GC 5264.
 - d. Prior occurrences, in this area or with this victim.
 - e. Statements made by suspects; exact wording is critical.
 - f. Document the victim's protected characteristics.
 8. Provide victim assistance and follow-up.
 9. Canvass the area for additional witnesses.
 10. Examine suspect's social media activity for potential evidence of bias motivation.
 11. Coordinate the investigation with agency, state, and regional intelligence operations. These sources can provide the investigating officer with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
 12. Coordinate the investigation with the crime scene investigation unit (if applicable) or other units of the agency.
 13. Determine if the incident should be classified as a hate crime.
 14. Take steps to ensure appropriate assistance is provided to hate crime victim(s), including the following measures:
 - a. Contact the victim periodically to determine whether he/she is receiving adequate and appropriate assistance.
 - b. Provide ongoing information to the victim about the status of the criminal investigation.
 - c. Provide the victim and any other interested person the brochure on hate crimes per CPC 422.92 and information on any local advocacy groups (if asked).
 15. Report any suspected multi-mission extremist crimes to the agency TLO, or assigned designee, and direct the TLO or designee to send the data to the Joint Regional Information Exchange System.
 16. Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents (if directed by policy), and determine if organized hate groups are involved.

Supervision

The supervisor shall confer with the initial responding officer(s) and ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

1. Provide immediate assistance to the crime victim by:
 - a. Expressing the law enforcement agency's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
 - b. Expressing the department's interest in protecting victims' anonymity (confidentiality forms GC 6254) to the extent possible. Allow the victim to convey his/her immediate concerns and feelings.
 - c. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy or departmental chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per CPC 422.92).
2. Ensure that all relevant facts are documented on an incident and/ or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
3. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
4. In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer at specific locations that could become targets).
5. Ensure hate crimes are properly reported, including reporting to the Department of Justice, pursuant to CPC 13023.
6. Ensure adherence to CPC 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.)
7. Respond to and investigate any reports of hate crimes committed under the color of authority.
8. Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For information see the California Department of Justice webpage or use following link: <https://oag.ca.gov/sites/all/files/agweb/pdfs/civilrights/AG-Rapid-Response-Team-Protocol-2.pdf>
9. Report or ensure any suspected multi-mission extremists crimes are reported to the agency TLO, or assigned designee, and direct the TLO/ designee to send the data to the Joint Regional Information Exchange System.
10. Make a final determination as to whether the incident should be classified as a hate crime.

Training

All staff, including dispatch, desk personnel, volunteers, records, support staff, officers, supervisors, and managers shall be properly trained on the department's hate crimes policy. The agency will follow all legislatively mandated training requirements.

POST offers training and video courses to assist law enforcement in the identification, investigation, documentation and reporting of hate crimes. These courses provide officers with information and skills necessary to effectively identify, investigate, document and report hate crimes. Various training programs include the history and definitions of hate crimes, recognition of hate groups, international terrorism, legal considerations, victims' considerations, initial response duties, victim interviewing and care, suspect identification and interrogation, evidence identification, report writing, the role of law enforcement, investigative strategies, intelligence collection, supervisory roles, community relations, media relations and local program training development, and other topics such as proper use of computer systems and methods for reporting. POST also maintains an extensive array of training videos on applicable topics such as working with those with mental illness and intellectual disabilities, hate crimes, and working with minority communities.

For more information on POST training opportunities and available videos, visit the POST website at www.post.ca.gov. In conjunction with POST training opportunities, trainers may utilize other state and federal agencies that offer training courses, such as the U.S. Department of Justice.

Planning and Prevention

The general underreporting of hate crimes is an identified issue in California. Underreporting is caused by victims not reporting hate crimes or hate incidents due to a number of factors, including fear of reprisal and the belief that law enforcement will not properly investigate them. A report by the State Auditor in 2018 determined that California law enforcement has not taken adequate action to identify, report and respond to hate crimes. There is also an extreme underreporting of anti-disability and anti-gender hate crimes. The agency's plan to remedy this underreporting *shall be inserted into the policy* (emphasis added).

In order to facilitate the recommendations contained within this policy, it is strongly recommended that agencies build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Agency personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes. Assigned personnel should perform the following:

1. Meet with residents in target communities to allay fears; emphasize the agency's concern over this and related incidents; reduce the potential for counter-violence; and provide safety, security, and crime prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
2. Provide direct and referral assistance to the victim and his/her family.
3. Conduct public meetings on hate crime threats and violence in general.
4. Establish relationships with formal community-based organizations and leaders.
5. Expand, where appropriate, preventive programs such as hate, bias, and crime reduction seminars for school children.

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6. Review the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Islamic communities.²
 7. Provide orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, Black or African-American, Jewish, Sikh, disabled persons, etc.

Hate crimes are not only a crime against the targeted victim(s) but also have impacts on the victim's family and community. Working constructively with segments of this larger community after such crimes is essential to help reduce fears, stem possible retaliation, prevent additional hate crimes, and encourage any other previously victimized individuals to step forward and report such crimes. This is particularly important if an upward trend has been identified in these crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Most California law enforcement agencies do not track hate incidents. It is recommended that hate incidents be investigated and documented, if directed by policy, as part of the overall planning to prevent hate crime.

Tracking social media is also another identified area to find indicators of, or precursors to, hate crimes. It is recommended that agencies assign personnel to find, evaluate and monitor public social media sources to identify possible suspects in reported hate crimes, or to determine suspects or suspect groups in future hate crimes or hate incidents affecting the identified individuals, groups or communities that may be victimized, and planned hate-based events.

Release of Information

Agencies should have procedure and/or policy on public disclosure of hate crimes. Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure would assist greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

1. Dissemination of correct information.
2. Assurance to affected communities or groups that the matter is being properly and promptly investigated.
3. The ability to request information regarding the commission of the crime(s) from the victimized community.

Agencies should provide the supervisor, public information officer, or designee with information that can be responsibly reported to the media. When appropriate, the law enforcement media spokesperson should reiterate that the hate crimes will not be tolerated, will be taken seriously, and will be prosecuted to the full extent of the law.

Agencies are encouraged to consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

²As described in CPC 13519.6(b)(8)

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1. Informing community organizations in a timely manner when a community group has been the target of a hate crime.
 2. Informing the community of the impact of these crimes on the victim, the victim's family, and the community, and the assistance and compensation available to victims.
 3. Informing the community regarding hate crime law and the legal rights of, and the remedies available to, victims of hate crimes.
 4. Providing the community with on-going information regarding hate crime and/or hate incidents (if policy requires it).

Reporting

The agency policy shall require development of a procedure for data collection, documentation, and mandated reporting requirements. The agency shall:

1. Ensure that hate crimes are properly investigated, documented and reported.
2. During documentation, ensure hate crimes are flagged properly to allow for required reporting to the California Department of Justice. This is typically indicated by the title/penal code section identifying the report as a hate crime. Some agencies have added a check box specifically indicating a hate crime that could, if required by the agency policy, require a secondary review by an investigator/detective, supervisor or other identified party. It is the agency executive's responsibility to determine the form of documentation and type of indicators on crime reports.
3. The agency head or their designee (identified in the agency policy) should make a final determination as to whether the incident should be classified as a hate crime by the agency.
4. Agencies shall develop procedures to comply with legally mandated reporting, including the California Department of Justice, pursuant to CPC 13023.

Checklist for the agency's policy creation

- ☐ Message from the law enforcement's agency's chief executive is included
 - ☐ The updated existing policy or newly adopted policy includes the content of the model policy framework from POST.
 - ☐ Definition of "hate crime" included from:
 - ☐ CPC 422.55
 - ☐ CPC 422.56
 - ☐ CPC 422.6
 - ☐ Title by title specific protocol regarding:
 - ☐ Prevention
 - ☐ Is contact is established with identified persons and/or communities who are likely targets?
 - ☐ Have we formed and/or are we cooperating with hate crime prevention and response networks?
 - ☐ Has a plan for the agency to remedy underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes been created?
 - ☐ Response
 - ☐ Requirement that all hate crimes be properly investigated and supervised
 - ☐ Requirement that any hate crimes committed under the color of authority are investigated
 - ☐ Accessing Assistance
 - ☐ Information provided for activating the Department of Justice hate crime rapid response protocol when necessary
 - ☐ Victim assistance and follow-up
 - ☐ Reporting
 - ☐ Protocol for reporting suspected hate crimes to the Department of Justice per CPC 13023
 - ☐ Training
 - ☐ Has a checklist for first responders been created and provided personnel (see exemplar officer checklist in appendix)
 - ☐ Does the checklist include first responder responsibilities include:
 - ☐ Determining the need for additional resources if necessary?
 - ☐ Referral information for appropriate community and legal services?
 - ☐ The requirement to provide the agency's hate crimes brochure per CPC 422.92?
 - ☐ Information regarding bias motivation from CPC 422.87
 - ☐ Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes
- ☐ Definitions of terms used in the policy are listed
- ☐ Specific procedure for transmitting and periodically retransmitting the policy and any related orders to officers is included.
 - ☐ Procedure shall include a simple and immediate way for officers to access the policy in the field when needed
- ☐ Title or titles of the officer or officers responsible for assuring the department has a hate crime brochure (per CPC 422.92) and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- ☐ A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the law enforcement chief executive or the chief executive's designee.

APPENDIX

Definitions and Laws

In accordance with CPC sections 422.55, 422.56, 422.6, and 422.87, for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Hate crime

“Hate crime” means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- (1) Disability.
- (2) Gender.
- (3) Nationality.
- (4) Race or ethnicity.
- (5) Religion.
- (6) Sexual orientation.
- (7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) “Hate crime” includes, but is not limited to, a violation of Section 422.6.

“Association with a person or group with these actual or perceived characteristics” Includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of CPC 422.55 subdivision (a).

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

Hate Speech

The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected: fighting words, true threats, perjury, blackmail, incitement to lawless action, conspiracy and solicitation to commit any crime.

Hate incident

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

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

Bias Motivation

Bias motivation is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.

Disability Bias

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

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

Disability

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

Gender

Gender means sex and includes a person gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior, whether or not stereotypically associated with the persons assigned sex at birth. A person's gender identity and gender related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth.

In Whole or In Part

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

Nationality

Nationality includes citizenship, country of origin, and national origin.

Race or Ethnicity

Race or ethnicity includes ancestry, color, and ethnic background.

Religion

Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Sexual orientation

Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim

Victim includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public

Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

HATE CRIME CHECKLIST

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VICTIM	<u>Victim Type:</u> ☐ Individual Legal name (Last, First): _____ Other Names used (AKA): _____ ☐ School, business or organization Name: _____ Type: _____ (e.g., non-profit, private, public school) Address: _____ ☐ Faith-based organization Name: _____ Faith: _____ Address: _____	<u>Target of Crime (Check all that apply):</u> ☐ Person ☐ Private property ☐ Public property ☐ Other _____ <u>Nature of Crime (Check all that apply):</u> ☐ Bodily injury ☐ Threat of violence ☐ Property damage ☐ Other crime: _____ Property damage - estimated value _____
BIAS	<u>Type of Bias</u> <u>(Check all characteristics that apply):</u> ☐ Disability ☐ Gender ☐ Gender identity/expression ☐ Sexual orientation ☐ Race ☐ Ethnicity ☐ Nationality ☐ Religion ☐ Significant day of offense (e.g., 9/11, holy days) ☐ Other: _____ Specify disability (be specific): _____ _____	<u>Actual or Perceived Bias – Victim’s Statement:</u> ☐ Actual bias [Victim actually has the indicated characteristic(s)]. ☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i> <u>Reason for Bias:</u> Do you feel you were targeted based on one of these characteristics? ☐ Yes ☐ No <i>Explain in narrative portion of Report.</i> Do you know what motivated the suspect to commit this crime? ☐ Yes ☐ No <i>Explain in narrative portion of Report.</i> Do you feel you were targeted because you associated yourself with an individual or a group? ☐ Yes ☐ No <i>Explain in narrative portion of Report.</i> Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? ☐ Yes ☐ No <i>Describe in narrative portion of Report.</i> Are there Indicators the suspect is affiliated with a criminal street gang? ☐ Yes ☐ No <i>Describe in narrative portion of Report.</i>
	<u>Bias Indicators (Check all that apply):</u> ☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used ☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____ <i>Describe with exact detail in narrative portion of Report.</i>	
HISTORY	<u>Relationship Between Suspect & Victim:</u> Suspect known to victim? ☐ Yes ☐ No Nature of relationship: _____ Length of relationship: _____ <i>If Yes, describe in narrative portion of Report</i>	☐ Prior reported incidents with suspect? Total # _____ ☐ Prior unreported incidents with suspect? Total # _____ Restraining orders? ☐ Yes ☐ No <i>If Yes, describe in narrative portion of Report</i> Type of order: _____ Order/Case# _____
WEAPONS	Weapon(s) used during incident? ☐ Yes ☐ No Type: _____ Weapon(s) booked as evidence? ☐ Yes ☐ No Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No	

HATE CRIME CHECKLIST

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EVIDENCE	Witnesses present during incident? ☐ Yes ☐ No		Statements taken? ☐ Yes ☐ No	
	Evidence collected? ☐ Yes ☐ No Photos taken? ☐ Yes ☐ No Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____		Recordings: ☐ Video ☐ Audio ☐ Booked Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim	

OBSERVATIONS	<u>VICTIM</u>	<u>SUSPECT</u>
	☐ Tattoos ☐ Shaking ☐ Unresponsive ☐ Crying ☐ Scared ☐ Angry ☐ Fearful ☐ Calm ☐ Agitated ☐ Nervous ☐ Threatening ☐ Apologetic ☐ Other observations: _____	☐ Tattoos ☐ Shaking ☐ Unresponsive ☐ Crying ☐ Scared ☐ Angry ☐ Fearful ☐ Calm ☐ Agitated ☐ Nervous ☐ Threatening ☐ Apologetic ☐ Other observations: _____
	<u>ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):</u>	
	Has suspect ever threatened you? ☐ Yes ☐ No Has suspect ever harmed you? ☐ Yes ☐ No Does suspect possess or have access to a firearm? ☐ Yes ☐ No Are you afraid for your safety? ☐ Yes ☐ No Do you have any other information that may be helpful? ☐ Yes ☐ No	
<u>Resources offered at scene:</u> ☐ Yes ☐ No Type: _____		

MEDICAL	<table style="width: 100%;"> <tr> <th style="width: 10%;"><u>Victim</u></th> <th style="width: 10%;"><u>Suspect</u></th> <th></th> </tr> <tr> <td>☐</td> <td>☐</td> <td>Declined medical treatment</td> </tr> <tr> <td>☐</td> <td>☐</td> <td>Will seek own medical treatment</td> </tr> <tr> <td>☐</td> <td>☐</td> <td>Received medical treatment</td> </tr> </table> Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No	<u>Victim</u>	<u>Suspect</u>		☐	☐	Declined medical treatment	☐	☐	Will seek own medical treatment	☐	☐	Received medical treatment	Paramedics at scene? ☐ Yes ☐ No Unit # _____ Name(s)/ID #: _____ Hospital: _____ Jail Dispensary: _____ Physician/Doctor: _____ Patient #: _____
	<u>Victim</u>	<u>Suspect</u>												
☐	☐	Declined medical treatment												
☐	☐	Will seek own medical treatment												
☐	☐	Received medical treatment												

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Hate Crime Checklist.pdf

HATE CRIME CHECKLIST

Page _____ of _____

VICTIM	<u>Victim Type:</u> ☐ Individual Legal name (Last, First): _____ Other Names used (AKA): _____ ☐ School, business or organization Name: _____ Type: _____ (e.g., non-profit, private, public school) Address: _____ ☐ Faith-based organization Name: _____ Faith: _____ Address: _____	<u>Target of Crime (Check all that apply):</u> ☐ Person ☐ Private property ☐ Public property ☐ Other _____ <u>Nature of Crime (Check all that apply):</u> ☐ Bodily injury ☐ Threat of violence ☐ Property damage ☐ Other crime: _____ Property damage - estimated value _____
BIAS	<u>Type of Bias</u> <u>(Check all characteristics that apply):</u> ☐ Disability ☐ Gender ☐ Gender identity/expression ☐ Sexual orientation ☐ Race ☐ Ethnicity ☐ Nationality ☐ Religion ☐ Significant day of offense (e.g., 9/11, holy days) ☐ Other: _____ Specify disability (be specific): _____ _____	<u>Actual or Perceived Bias – Victim’s Statement:</u> ☐ Actual bias [Victim actually has the indicated characteristic(s)]. ☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i> <u>Reason for Bias:</u> Do you feel you were targeted based on one of these characteristics? ☐ Yes ☐ No <i>Explain in narrative portion of Report.</i> Do you know what motivated the suspect to commit this crime? ☐ Yes ☐ No <i>Explain in narrative portion of Report.</i> Do you feel you were targeted because you associated yourself with an individual or a group? ☐ Yes ☐ No <i>Explain in narrative portion of Report.</i> Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? ☐ Yes ☐ No <i>Describe in narrative portion of Report.</i> Are there Indicators the suspect is affiliated with a criminal street gang? ☐ Yes ☐ No <i>Describe in narrative portion of Report.</i>
	<u>Bias Indicators (Check all that apply):</u> ☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used ☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____ <i>Describe with exact detail in narrative portion of Report.</i>	
HISTORY	<u>Relationship Between Suspect & Victim:</u> Suspect known to victim? ☐ Yes ☐ No Nature of relationship: _____ Length of relationship: _____ <i>If Yes, describe in narrative portion of Report</i>	☐ Prior reported incidents with suspect? Total # _____ ☐ Prior unreported incidents with suspect? Total # _____ Restraining orders? ☐ Yes ☐ No <i>If Yes, describe in narrative portion of Report</i> Type of order: _____ Order/Case# _____
WEAPONS	Weapon(s) used during incident? ☐ Yes ☐ No Type: _____ Weapon(s) booked as evidence? ☐ Yes ☐ No Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No	

HATE CRIME CHECKLIST

Page _____ of _____

EVIDENCE	Witnesses present during incident? ☐ Yes ☐ No		Statements taken? ☐ Yes ☐ No		
	Evidence collected? ☐ Yes ☐ No Photos taken? ☐ Yes ☐ No Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____		Recordings: ☐ Video ☐ Audio ☐ Booked Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim		
OBSERVATIONS	<u>VICTIM</u>		<u>SUSPECT</u>		
	☐ Tattoos ☐ Shaking ☐ Unresponsive ☐ Crying ☐ Scared ☐ Angry ☐ Fearful ☐ Calm ☐ Agitated ☐ Nervous ☐ Threatening ☐ Apologetic ☐ Other observations: _____		☐ Tattoos ☐ Shaking ☐ Unresponsive ☐ Crying ☐ Scared ☐ Angry ☐ Fearful ☐ Calm ☐ Agitated ☐ Nervous ☐ Threatening ☐ Apologetic ☐ Other observations: _____		
	<u>ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):</u>				
	Has suspect ever threatened you? ☐ Yes ☐ No Has suspect ever harmed you? ☐ Yes ☐ No Does suspect possess or have access to a firearm? ☐ Yes ☐ No Are you afraid for your safety? ☐ Yes ☐ No Do you have any other information that may be helpful? ☐ Yes ☐ No				
<u>Resources offered at scene:</u> ☐ Yes ☐ No Type: _____					
MEDICAL	<u>Victim</u> <u>Suspect</u> ☐ ☐ Declined medical treatment ☐ ☐ Will seek own medical treatment ☐ ☐ Received medical treatment Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No		<u>Paramedics at scene?</u> ☐ Yes ☐ No Unit # _____ Name(s)/ID #: _____ Hospital: _____ Jail Dispensary: _____ Physician/Doctor: _____ Patient #: _____		
	Officer (Name/Rank)		Date		
Officer (Name/Rank)		Date			
Supervisor Approving (Name/Rank)		Date			

Supplemental Hate Crime Report.pdf

☐ Hate incident (No Crime Committed)

☐ Hate Crime (422.6 PC, 51.7 CC, 52.1 CC)

VICTIM

VICTIM TYPE

☐ Individual

Legal name (Last, First): _____

Date of Birth

Age

Sex

Race

☐ School, business or organization

Name: _____

Type: _____
(e.g., non-profit, private, public school)

☐ Faith-based organization

Name: _____

Faith: _____

☐ Other

Name: _____

Type: _____

Address: _____

Date and time of incident: _____

Location of incident: _____

Date and time of report: _____

Location of report: _____

Agency Case #: _____

NATURE OF CALL FOR SERVICE (check all that apply)

☐ Crime against persons

☐ Crime against property

☐ Gang activity

☐ Other _____

BIAS

TYPE OF BIAS

(Check all characteristics that apply)

☐ Disability

☐ Gender

☐ Gender identity/expression

☐ Sexual orientation

☐ Race

☐ Ethnicity

☐ Nationality

☐ Religion

☐ Significant day of offense

(e.g., 9/11, holy days)

☐ Association with a person or group with
one or more of these characteristics
(actual or perceived)

☐ Other: _____

ACTUAL OR PERCEIVED BIAS – VICTIM'S STATEMENT

☐ Actual bias [Victim has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated
characteristic(s)].

REASON FOR BIAS:

Do you feel you were targeted based on one of these characteristics?

☐ Yes ☐ No

Do you know what motivated the suspect to commit this crime?

☐ Yes ☐ No

Do you feel you were targeted because you associated yourself with an
individual or a group?

☐ Yes ☐ No

Are there indicators the suspect is affiliated with a Hate Group
(i.e., literature/tattoos)?

☐ Yes ☐ No

Are there Indicators the suspect is affiliated with a criminal street gang?

☐ Yes ☐ No

BIAS INDICATORS (CHECK ALL THAT APPLY):

☐ Hate speech

☐ Acts/gestures

☐ Property damage

☐ Symbol used

☐ Written/electronic communication

☐ Graffiti/spray paint

☐ Other: _____

SUPPLEMENTAL HATE CRIME REPORT

POST 2-365 (01/2023) Page 2 of 2

HISTORY**SUSPECT INFORMATION**Legal name (Last, First):
_____Other Names used (AKA):

Date of Birth	Age	Sex	Race

Relationship to Victim:
_____**RELATIONSHIP BETWEEN SUSPECT & VICTIM**Suspect known to victim: ☐ Yes ☐ NoNature of relationship:

Length of relationship: _____

☐ Prior reported incidents with suspect: *Total #* _____

Prior unreported incidents with suspect:

☐ Yes ☐ No ☐ Unknown**WEAPONS/FORCE**Weapon(s) used during incident? ☐ Yes ☐ No Type: _____Force used during incident? ☐ Yes ☐ No Type: _____**EVIDENCE**Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ NoEvidence collected? ☐ Yes ☐ No Recordings: ☐ Video ☐ Audio ☐ BookedPhotos taken? ☐ Yes ☐ No Suspect identified: ☐ Field ID ☐ By photo/video ☐ Known**RESOURCES**Resources offered at scene: ☐ Yes ☐ No☐ Marsy's Law Handout ☐ Hate Crimes Brochure ☐ Other: _____**MEDICAL****Victim****Suspect**☐☐

Declined medical treatment

☐☐

Will seek own medical treatment

☐☐

Received medical treatment

☐☐

Injuries observed

Completed by**Date**

Name/Title/ID number

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