CHIEF'S PREFACE
Welcome to the Modesto Police Department Policy Manual. It is important to have policies and procedures that allow the police department and its employees to provide high quality and consistent service to the community. This policy manual and a number of procedural manuals describe practices or guidelines that ensure we operate within State and Federal laws and using the best practices possible.

Not all topics are contained within this or other department manuals. In cases where other clear directive exists in local, State or Federal law, those sections should be relied upon for guidance.

The sections in this Manual and the Procedure Manual were developed and approved by Modesto Police Personnel. It is the responsibility of every member of this agency to read and understand all directives of this department. It is also the responsibility of every member to suggest ways to improve or refine our procedures when they become known. Any member can request a review and possible revision of a policy or procedure by submitting the request in writing through the chain of command. It takes all of us to develop and sustain excellence.
LAW ENFORCEMENT CODE OF ETHICS
As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the Constitutional Rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all; 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.
MISSION AND VISION STATEMENT

MISSION STATEMENT
The mission of the Modesto Police Department is to drive the crime rate down and improve the quality of life in the City of Modesto.

VISION
The City of Modesto is a safe place to live, work and play.
We proactively enforce laws, develop long-term solutions to problems and engage in crime prevention in partnership with the community.

The Modesto Police Department is a leader in Intelligence-led policing.
We maximize the use of technology, innovative ideas and crime analysis in the deployment of our resources.

The Modesto Police Department is a learning organization.
We constantly strive to excel and grow by learning from our experiences, tactics and careful examination of events in the public and private sectors. We embrace new ideas and concepts to provide safety and service to our community.
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Chapter 1 - Law Enforcement Role and Authority
Law Enforcement Authority

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

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

100.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE MODESTO POLICE DEPARTMENT
The arrest authority outside the jurisdiction of the Modesto 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.

100.2.2 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE MODESTO POLICE DEPARTMENT
The arrest authority within the jurisdiction of the Modesto Police Department includes (Penal Code § 830.1; Penal Code § 836):

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

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

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

(e) In compliance with an arrest warrant.

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

(a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:
   1. A misdemeanor committed in the presence of the officer.
   2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).

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

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

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

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

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

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

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

Modesto 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.
100.3   INTERSTATE PEACE OFFICER POWERS
Peace officer powers may be extended to other states:

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

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

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

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

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

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

100.6   REVISIONS
Adopted October 1, 2014

- Revised September 1, 2016
- Revised October 1, 2018
- Revised July 1, 2020
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.
Oath of Office

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

104.2 POLICY
It is the policy of the Modesto 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.

104.3 ADMINISTERING THE OATH
The Oath of Office shall be administered by the Chief of Police or his/her designee at time of appointment. The Oath of Office will be recited by the officer at the time the oath is given.

104.4 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.”

104.5 MAINTENANCE OF RECORDS
Upon completion of reciting of the Oath of Office, the officer will sign the Oath, with the City Clerk, or their designee, as a witness. This signed document will then be placed in the Officer’s personnel file and a copy to the City Clerk.

104.6 REVISIONS
Adopted October 1, 2014
- Revised December 1, 2016
Policy Manual

106.1 PURPOSE AND SCOPE
The manual of the Modesto 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.

106.2 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.

106.2.1 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 Modesto 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 Modesto Police Department reserves the right to revise any policy content, in whole or in part.

106.3 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 Interim Directives, which shall modify those provisions of the manual to which they pertain. Interim Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

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

Adult - Any person 18 years of age or older.

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


City - The City of Modesto.

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

Department/Modesto PD - The Modesto Police Department.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile - Any person under the age of 18 years.


May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Modesto Police Department, including:
  - Full- and part-time employees
  - Sworn peace officers
  - Reserve officers
  - Civilian employees
  - Volunteers.

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

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

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

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

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

Shall or will - Indicates a mandatory action.

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

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

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

**USC** - United States Code.

**106.5 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 Interim Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

**106.6 PERIODIC REVIEW OF THE POLICY MANUAL**
The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary.

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

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

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

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

**106.8 REVISIONS**
Adopted October 1, 2014

- Revised August 1, 2016
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 Modesto Police Department. There are three divisions in the Police Department as follows:

- Support Division
- Operations Division
- Investigative Services Division

200.2.1 SUPPORT DIVISION
The Support Division commanded by a Captain whose primary responsibility is to provide general management direction and control for the Support Division. The Support Division consists of Animal Control, Training Unit, Youth Services, Records, Admin/Building Services, Information Technology, Station Officer, Telephone Reporting Unit and Property & Evidence.

200.2.2 OPERATIONS DIVISION
The Operations Division commanded by a Captain whose primary responsibility is to provide general management direction and control for that Division. The Operations Division consists of Uniformed Patrol, Traffic Unit and Crime Reduction Team, which includes Crime Prevention, Crime-Free Housing, Restorative Policing, Bike Patrol, High Risk Offender Program, Housing Authority Officer, and Downtown Entertainment District.

200.2.3 INVESTIGATIVE SERVICES DIVISION
The Investigation Division is commanded by a Captain whose primary responsibility is to provide general management direction and control for the Investigative Services Division. The Investigative Services Division consists of the Violent Crimes Unit, Special Crimes Unit, Property Crimes Unit, Street Gang Unit, MNET, CVGIT, SDEA, Gang Intelligence Unit, Crime Analysis Unit and ID Techs.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND
The Chief of Police exercises command over all personnel in the Department. During planned absences the Chief of Police will designate the Assistant Chief to serve as the acting Chief of Police.

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

(a) Senior Captain on duty or in the absence or disability of all three Captains:

(b) Senior Lieutenant on duty

200.3.2 UNITY OF COMMAND
The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g., K-9, SWAT), any supervisor may temporarily direct any subordinate if an operational necessity exists.

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.

200.4 CHAIN OF COMMAND
Chain of Command means a series of administrative ranks or positions in which each has direct authority over the one immediately below. All official communications of the Department, whether moving downward or requests, information, suggestions or complaints moving upward, shall be confined to official channels. Each link in the chain of command shall be respected in this regard. It shall be the responsibility of each echelon to forward communications to the next higher echelon with his or her approval, disapproval or recommendations. However, representatives of labor associations shall have an “open door” policy with management of the Modesto Police Department to include, but not limited to, the Chief of Police.

200.5 RANK
The order of rank in the Modesto Police Department for supervisory/management police personnel shall be:
Chief of Police
Assistant Chief
Captain
Lieutenant / Police Civilian Manager
Sergeant / Police Civilian Supervisor

200.6 REVISIONS
Adopted October 1, 2014
  • Revised April 1, 2016
Interim Directive

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

204.1.1 INTERIM DIRECTIVE PROTOCOL
Interim Directives will be incorporated into the manual as required upon approval of Staff. Interim Directives will modify existing policies or create a new policy as appropriate and will be rescind upon incorporation into the manual.

Any Interim 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, 14-01 signifies the first Interim Directive for the year 2014.

204.2 RESPONSIBILITIES

204.2.1 STAFF
Command Staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by an Interim Directive.

204.2.2 CHIEF OF POLICE
The Chief of Police shall issue all Interim Directives.

204.3 ACCEPTANCE OF INTERIM DIRECTIVES
All employees are required to read and obtain any necessary clarification of all Interim Directives. All employees are required to acknowledge in writing the receipt and review of any new Interim Directive. Signed acknowledgement forms and/or e-mail receipts showing an employee's acknowledgement will be maintained by the Training Supervisor.

204.4 REVISIONS
Adopted October 1, 2014

- Revised November 1, 2016
Emergency Management Plan

206.1 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).

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

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

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

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

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

208.1 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.

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

208.3 OBJECTIVES
The objectives of the Training Program are to:

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

208.3.1 MODESTO PD HOSTED TRAINING
The Modesto Police Department is located in a central location in the San Joaquin Valley and as such has become a "destination" facility for hosting training. It is the goal of the Training Unit to provide the best quality training to personnel at the lowest possible cost.

The Training Unit must coordinate all training that is hosted by the Modesto Police Department in order to prevent conflicts in scheduling.

To the extent possible, all costs associated with Department hosted training should be covered by the cost of tuition for the course.

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

- Legislative Changes
- State Mandated Training
- Critical Issues Training
- City Mandated Training
208.5 TRAINING NEEDS ASSESSMENT
The Training Unit will conduct an annual training-needs assessment of the Department. The needs assessment will be reviewed by staff. Upon approval by the staff, the needs assessment will form the basis for the training plan for the fiscal year.

208.6 TRAINING PROCEDURES
When attendance at a training course is mandatory, the training announcement shall stipulate that the training is mandatory and shall list the personnel who are required to attend. The Training Unit Supervisor shall coordinate mandatory training so that several classes are offered on different days and for different shifts. Attendance at one of the mandatory training classes will be scheduled by the Training Supervisor or his/her designee and shall take into consideration staffing levels, scheduled vacation, and other concerns.

(a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:
   1. Court appearances
   2. Pre-approved vacation or time off
   3. Sick leave
   4. Physical limitations preventing the employee’s participation.
   5. Emergency situations

(b) When an employee is unable to attend mandatory training, that employee shall:
   1. Notify his/her supervisor as soon as possible.
   2. Document his/her absence in a memorandum to his/her supervisor.
   3. Make arrangements through his/her supervisor and Training Supervisor to attend the required training on an alternate date.

Employees shall be required to sign the attendance roster to confirm their attendance.

208.6.1 UNEXCUSED ABSENCE
In the event of an unexcused absence, the Training Supervisor or his/her designee will notify the employee’s Supervisor in writing. The Supervisor will take the following action:

(a) Determine the specific reason for non-attendance.

(b) Take disciplinary action if necessary

(c) Have the employee report to the Training Supervisor or his/her designee for make up training.
Electronic Mail

212.1 PURPOSE AND SCOPE
The purpose of this policy is to establish guidelines for the proper use and application of the Department's electronic mail (email) system by employees of this department. Email is a communication tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act). Messages transmitted over the email system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the Department.

This policy is in addition to City of Modesto Administrative Directive 1.17 - Computer Use Policy including Internet and E-Mail Usage.

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

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

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

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

Email messages addressed to the entire department are only to be used for official business related items that are of particular interest to all users. Personal advertisements are not acceptable.

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

All personnel shall use no more than one email system, email software, or email provider when using a Department computer, computer system, or other device. The one email system that shall be used shall be controlled and operated by the Modesto Police Department or the City of
Electronic Mail

Modesto, and shall be from no other source. Permission to use a second email system or other e-mail systems shall be by written permission from the their supervisor

212.4 EMAIL RECORD MANAGEMENT
All personnel shall check their email at least once a day on workdays.

Because the email system is not designed for long-term retention of messages, email that the employee desires to save or that becomes part of an official record should be printed and/or stored elsewhere (e.g. a folder, user drive, etc.). Users of email are solely responsible for the management of their mailboxes.

Exchange/Outlook email is automatically deleted by the Information Technology Department every 90 days. However, email will be retained for two years on the email archiving system.

212.5 REVISIONS
Adopted October 1, 2014
- Revised April 1, 2016
Administrative Communications

214.1 PURPOSE AND SCOPE
Administrative communications of this department are governed by the following policies.

214.2 PERSONNEL ORDER
Personnel Orders may be issued periodically by the Chief of Police to announce and document all promotions.

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

214.4 SURVEYS
All surveys made in the name of the Department shall be authorized by the Chief of Police or a Division Commander.
License to Carry a Firearm

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

218.1.1 APPLICATION OF POLICY
Nothing in this policy shall preclude the Chief or other head of a municipal police department from entering into an agreement with the Sheriff of the county or preclude the Sheriff of the county from entering into an agreement with the Chief of any municipal police department to process all applications and license renewals for the carrying of concealed weapons (Penal Code § 26150; Penal Code § 26155).

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

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

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

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

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

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

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

(f) Show good cause for the issuance of the license (Penal Code § 26150; Penal Code § 26155).

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

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

(i) Complete required training (Penal Code § 26165).
(j) Firearms authorized to be carried must be registered to the permit holder.

218.4 APPLICATION PROCESS

The application process for a license to carry a firearm shall consist of two phases. Upon the successful completion of each phase, the applicant will advance to the next phase until the process is completed and the license is either issued or denied.

218.4.1 PHASE ONE (TO BE COMPLETED BY ALL APPLICANTS)

(a) Any individual applying for a license to carry a firearm shall first fully complete a California Department of Justice (DOJ) application to be signed under penalty of perjury. Any applicant who provides false information or statements on the application will be removed from further consideration and may be prosecuted for a criminal offense (Penal Code § 26180).

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

2. If an incomplete application package is received, the Chief of Police or authorized designee may do any of the following:
   (a) Require the applicant to complete the package before any further processing.
   (b) Advance the incomplete package to phase two for conditional processing pending completion of all mandatory conditions.
   (c) Issue a denial if the materials submitted at the time demonstrate that the applicant would not qualify for a license to carry a firearm even if the package was completed (e.g., not a resident, disqualifying criminal conviction, absence of good cause).

(b) At the time the completed application is submitted, the applicant shall submit a check made payable to the City of Modesto for the required California DOJ application fee and 20 percent of the City of Modesto nonrefundable administrative fee to cover the cost of processing the application (Penal Code § 26190).

   (a) Additional fees may be required for fingerprinting, training or psychological testing, in addition to the application fee.
   (b) Full payment of the remainder of the application fee will be required upon issuance of a license.
   (c) Payment of related fees may be waived if the applicant is a duly appointed reserve peace officer as defined in Penal Code § 830.6 (a) or (b) (Penal Code § 26170).
(c) The applicant shall be required to submit to fingerprinting and a complete criminal background check by the California DOJ. A second set of fingerprints may be required for retention in department files. No person determined to fall within a prohibited class described in Penal Code § 29800, Penal Code § 29900, Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 will be issued a license to carry a firearm. A license shall not be issued if the California DOJ determines that the applicant is prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm (Penal Code § 26195).

(d) The applicant shall submit a copy of their driver's license for identification purposes.

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

In the event that an application is denied at the conclusion of, or during, phase one, the applicant shall be notified in writing within 90 days of the initial application or within 30 days after receipt of the applicant's criminal background check from the California DOJ, whichever is later. If the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

218.4.2 PHASE TWO
This phase initiates a background investigation, with a personal interview with the Chief of Police or authorized designee, and is to be completed only by those applicants successfully completing phase one.

(a) During this stage, there will be further discussion of the applicant's statement of good cause and any potential restrictions or conditions that might be placed on the license.

1. The determination of good cause should consider the totality of circumstances in each individual case.

2. Any denial for lack of good cause should be rational, articulable and not arbitrary in nature.

3. The Department will provide written notice to the applicant as to the determination of good cause (Penal Code § 26202).

(b) The Chief of Police or authorized designee may, based upon criteria established by the Chief of Police, require that the applicant be referred to an authorized psychologist used by the Department for psychological testing. The cost of such psychological testing (not to exceed $150) shall be paid by the applicant. The purpose of any such psychological testing is intended only to identify any outward indications or history of psychological problems that might render the applicant unfit to carry a firearm. This testing is not intended to certify in any other respect that the applicant is psychologically fit. If it is determined that the applicant is not a suitable candidate for carrying a firearm, the applicant shall be removed from further consideration (Penal Code § 26190).

(c) The applicant shall complete a course of training approved by the agency, which complies with Penal Code § 26165. The applicant will not be required to complete and
License to Carry a Firearm

pay for any training courses prior to any determination of good cause (Penal Code § 26165; Penal Code § 26202).

(d) The Chief of Police or authorized designee reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).

(e) The applicant shall successfully complete a firearms safety and proficiency examination with the firearm to be licensed, to be administered by the department Armorer, or provide proof of successful completion of another departmentally approved firearms safety and proficiency examination, including completion of all releases and other forms. The cost of any outside inspection/examination shall be the responsibility of the applicant.

Once the Chief of Police or authorized designee has verified the successful completion of phase two, the license to carry a firearm will either be granted or denied.

Whether an application is approved or denied at the conclusion of or during phase two, the applicant shall be notified in writing within 90 days of the initial application or within 30 days after receipt of the applicant's criminal background check from the California DOJ, whichever is later. If the license is denied, the notice shall state which requirement was not satisfied (Penal Code § 26205).

218.5 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 (Penal Code § 26150). Therefore, such applicants may be referred to the Sheriff for processing.

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

(a) The applicant physically spends a substantial period of working hours in the applicant's principal place of employment or business within the City of Modesto (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).
License to Carry a Firearm

218.6 ISSUED FIREARMS PERMITS

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

(a) The license will not be valid outside the state of California.

(b) The license will be subject to any and all reasonable restrictions or conditions the Chief of Police has deemed warranted, including restrictions as to the time, place, manner and circumstances under which the person may carry the firearm.

   1. All such restrictions or conditions shall be conspicuously noted on any license issued (Penal Code § 26200).

   2. The licensee will be required to sign a Restrictions and Conditions Agreement. Any violation of any of the restrictions and conditions may result in the immediate revocation of the license.

(c) The license shall include the expiration date, type of firearm, restrictions and other pertinent information clearly visible.

   1. Each license shall be numbered and clearly identify the licensee.

   2. All licenses shall be subjected to inspection by the Chief of Police or any law enforcement officer.

(d) The license will be valid for a period not to exceed two years from the date of issuance (Penal Code § 26220).

   1. A license issued to a state or federal magistrate, commissioner or judge will be valid for a period not to exceed three years.

   2. A license issued to any reserve peace officer as defined in Penal Code § 830.6(a) or (b), or a custodial officer employed by the Sheriff as provided in Penal Code § 831.5 will be valid for a period not to exceed four years, except that such license shall be invalid upon the individual's conclusion of service as a reserve officer.

(e) If the licensee's place of residence was the basis for issuance of a license and the licensee moves out of the county of issuance, the license shall expire 90 days after the licensee has moved (Penal Code § 26210).

(f) The licensee shall notify this department in writing within 10 days of any change of place of residency.

218.6.1 LICENSE RESTRICTIONS

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

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

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

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

218.6.2 AMENDMENTS TO LICENSES
Any licensee may apply to amend a license at any time during the period of validity by completing and submitting a written Application for License Amendment along with the current processing fee to the Department in order to (Penal Code § 26215):

(a) Add or delete authority to carry a firearm listed on the license.
(b) Change restrictions or conditions previously placed on the license.
(c) Change the address or other personal information of the licensee (Penal Code § 26210).

In the event that any amendment to a valid license is approved by the Chief of Police or authorized designee, a new license will be issued reflecting the amendment. An amendment to any license will not serve to extend the original expiration date and an application for an amendment will not constitute an application for renewal of the license.

218.6.3 REVOCATION OF LICENSES
Any license issued pursuant to this policy may be immediately revoked by the Chief of Police or authorized designee for any of the following reasons:

(a) The licensee has violated any of the restrictions or conditions placed upon the license.
(b) The licensee becomes psychologically unsuitable to carry a firearm.
License to Carry a Firearm

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

(d) The licensee engages in any conduct which involves a lack of good moral character or that might otherwise remove the good cause for the original issuance of the license.

(e) If the license is one to carry "loaded and exposed," the license shall be revoked immediately upon a change of the licensee’s place of residence to another county (Penal Code § 26210).

The issuance of a license by the Chief of Police or authorized designee shall not entitle the holder to either a property or liberty interest as the issuance, amendment or revocation of such license remains exclusively within the discretion of the Chief of Police or authorized designee as set forth herein.

If any license is revoked, the Department will immediately notify the licensee in writing and the California DOJ (Penal Code § 26225).

218.6.4 LICENSE RENEWAL

No later than 90 days prior to the expiration of any valid license to carry a firearm, the licensee may apply to the Chief of Police for a renewal by:

(a) Verifying all information submitted in the original application under penalty of perjury.

(b) Completing a department-approved training course pursuant to Penal Code § 26165. The applicant shall not be required to pay for a training course prior to the determination of good cause (Penal Code § 26165).

(c) The Chief of Police or authorized designee reserves the right to deny a license for any firearm that has been altered from the manufacturer's specifications or that is unsafe (Penal Code § 31910).

(d) Paying a non-refundable renewal application fee.

Once the Chief of Police or authorized designee has verified the successful completion of the renewal process, the renewal of the license to carry a firearm will either be granted or denied. Prior issuance of a license shall not entitle any licensee to any property or liberty right to renewal.

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

218.6.5 APPEAL

Within thirty (30) days of a notice of denial to the applicant, an applicant wishing to appeal the denial of an application for a license or an amendment to a license, or of a revocation of a license may do so by contacting the Chief of Police or authorized designee and scheduling a date and time for a hearing. The appeal shall be in writing, and the applicant shall have the burden of
proof of establishing reasons why the license should not be denied. The Investigations Division Commander shall review the appeal and submit a written memorandum to the Chief of Police or authorized designee indicating a recommendation for approval or denial of the appeal and send written notice to the applicant, within thirty (30) days of the applicant's appeal notice, of the date and time for the hearing with the Chief of Police or authorized designee. The decision of the Chief of Police or authorized designee is final.

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

(a) The denial of a license
(b) The denial of an amendment to a license
(c) The issuance of a license
(d) The amendment of a license
(e) The revocation of a license

The Chief of Police shall annually submit to the State Attorney General the total number of licenses to carry firearms issued to reserve peace officers and judges.

218.8 CONFIDENTIAL RECORDS
The home address and telephone numbers of any peace officer, public defender, prosecutor, magistrate, commissioner or judge contained in an application or license shall not be considered public record (Government Code § 6254(u)(2)).

Any information in an application or license which tends to indicate when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of his/her family shall not be considered public record (Government Code § 6254(u)(1)).

218.9 REVISIONS
Adopted October 1, 2014

• Revised April 1, 2016
• Revised October 1, 2016
• April 1, 2019
Retiree Concealed Firearms

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

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

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

(a) Separated from service in good standing from this department as an officer.
(b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
(c) Has not been disqualified for reasons related to mental health.
(d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
(e) Is not prohibited by federal law from receiving or possessing a firearm.

220.3.1 MAINTAINING A CCW ENDORSEMENT - RETIREES RESIDING OUTSIDE OF STANISLAUS COUNTY AND THE STATE OF CALIFORNIA
For retiree’s residing outside of Stanislaus County and the State of California, the Department may accept, in lieu of departmental training and qualification, certification from another law enforcement agency, or authorized State testing facility, that the retiree has received training and has qualified to carry a firearm concealed.

For qualified retirees, their police identification card shall be stamped with "HR 218 Authorized" and a date that authorization expires.

Retirees are encouraged to review the laws of any state to which they are traveling and to understand those laws prior to carrying a concealed weapon in that state.

220.3.2 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.
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If the Modesto 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.

220.3.3 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.

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

(a) For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement. It shall not include any officer who retires in lieu of termination.

(b) No CCW Approved endorsement shall be issued to any officer retiring because of a psychological disability (Penal Code § 26305).

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

(a) A photograph of the retiree.

(b) The retiree’s name and date of birth.
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(c) The date of retirement.
(d) The name and address of this department.
(e) A stamped CCW Approved endorsement along with the date by which the endorsement must be renewed (not more than one year). If a CCW endorsement has been denied or revoked, the identification card shall be stamped “No CCW Privilege.”

220.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION
The Modesto Police Department shall provide an identification card with a CCW Approved endorsement to honorably retired peace officers from any jurisdiction that this department now serves under the following conditions (Penal Code § 25905):
(a) The retiree’s previous agency is no longer providing law enforcement services or the relevant government body is dissolved.
(b) This department is in possession of the retiree’s complete personnel record or can verify the retiree’s honorably retired status.
(c) The retiree is in compliance with all of the requirements of this department for the issuance of a CCW Approved endorsement.

220.4.3 QUALIFIED RETIRED RESERVES
Qualified retired reserve officers with a minimum of 10 years of service who meet the department requirements shall be provided an identification card with a CCW Approved endorsement (Penal Code § 26300).

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

220.5.1 RESPONSIBILITIES UNDER LEOSA
In order to obtain or retain a LEOSA identification card, the former officer shall:
(a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.
(b) Remain subject to all applicable department policies and federal, state and local laws.
(c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
(d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.
220.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

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

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

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

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

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

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

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

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

1. The retiree shall have 15 days from the date of service to file a written request for a hearing.

2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).

3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.

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

2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped “No CCW Privilege.”

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

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

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

3. The personal and written notification should be as follows:
   (a) The retiree’s CCW endorsement is immediately and temporarily suspended.
   (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
   (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.

4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Watch Commander should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Watch Commander may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

220.8 FIREARM QUALIFICATIONS
The Department provides 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 Training Unit will maintain a record of the qualifications and weapons used.

220.9 REVISIONS
Adopted October 1, 2014
- Revised November 1, 2016
Retiree Concealed Firearms

- Revised May 1, 2019
- Revised December 1, 2019
- Revised February 1, 2020
- Revised May 1, 2020
- Revised July 1, 2020
- Revised May 1, 2021
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.

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

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

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

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

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

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

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

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

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to
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the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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

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

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

300.3.2 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.
300.3.3 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.

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 CLOSED-FIST STRIKES AND KICKS
The need to immediately control a suspect must be weighed against the risk of causing serious injury to both the officer and suspect. Closed fist punches or kicks should not be used to intentionally target the head, neck, face, or throat except when the officer reasonably believes the suspect poses a threat of serious injury to the officer or others.

300.3.6 CAROTID CONTROL HOLD

Carotid restraints and choke holds are not approved use of force techniques. The only exception to this prohibition would be under exigent circumstances when deadly force is justified and reasonable.

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

300.3.8 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 Modesto Police Department for this specific purpose.

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

**300.4 DEADLY FORCE APPLICATIONS**

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

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

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

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

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

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

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

**300.4.1 SHOOTING AT OR FROM MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective and may involve additional considerations and risks. When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others (Government Code § 7286(b)).
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Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

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

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

(b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat.

Once it is reasonably safe to do so, officers should carefully secure all firearms.

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

300.5.1 NOTIFICATION TO SUPERVISORS
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 TASER device or control device.
(f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
(g) The individual subjected to the force was rendered unconscious.
(h) An individual was struck or kicked.
(i) An individual alleges unreasonable force was used or that any of the above has occurred.

As used in this subsection, “immediately” means as soon as it is safe and feasible to do so.
300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE
Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Records Unit Policy.

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

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

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

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

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

See the Medical Aid and Response Policy for additional guidelines.

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

(a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
(b) Ensure that any injured parties are examined and treated.

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

1. The content of the interview should not be summarized or included in any related criminal charges.
2. The fact that a recorded interview was conducted should be documented in a property or other report.
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 ensure the use of force incident is captured in Blue Team.

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.

300.8 TRAINING

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

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

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

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

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

See the Training Policy for restrictions relating to [officers/deputies] who are the subject of a sustained use of force complaint.
300.9 USE OF FORCE ANALYSIS
At least annually, the Internal Affairs Unit should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

(a) The identification of any trends in the use of force by members.
(b) Training needs recommendations.
(c) Equipment needs recommendations.
(d) Policy revision recommendations.

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

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

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

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

300.14 REVISIONS
Adopted October 1, 2014

• Revised August 1, 2016
• Revised May 1, 2017
• Revised April 1, 2018
• Revised November 1, 2018
• Revised January 1, 2020
• Revised July 1, 2020
• Revised October 1, 2020
• Revised June 1, 2021
Use of Force

• Revised February 1, 2022
Mobile GPS and AVL Systems

301.1 PURPOSE
To establishes the policies and procedures for utilizing the in car GPS (Global Positioning System) and AVL (Automated Vehicle Locator) System used with the PFL (Positron Front Line) Viper Mobile Software and CAD (Computer Aided Dispatching) software utilized by the Modesto Police Department.

The use of GPS and AVL has numerous advantages for law enforcement efficiency and officer safety situations. Uses for these systems include immediate geographic and mapping of calls for service to field personnel, location of field personnel available immediately for emergency response, assistance in resource management of vehicle locations during crime scene perimeter, area searches, and similar field situations.

301.2 POLICY
It is the policy of the Modesto Police Department to utilize the GPS and AVL systems to assist field personnel and dispatchers in the effective delivery of police services and the locating of field personnel in emergency situations. These systems are intended to assist in effective dispatching of calls for service, locating field personnel’s vehicle in emergency situations, assisting in perimeters and searches, and managing field resources.

301.3 DESCRIPTION AND CAPABILITIES
The GPS (Global Positioning System) Software is integrated into the Tiburon Viper Mobile Software. This software receives X and Y location coordinate values for a vehicles current position. The GPS software provides these X and Y coordinates values to the AVL (Automated Vehicle Locator) software which translates and displays the vehicles location in a usable graphic display in the vehicle on a GIS map. These locations can also be displayed on a CAD (Computer Aided Dispatch) users' map.

This software will be used in patrol vehicles, transport vehicles, special assignment vehicles, or any vehicles later installed with a Mobile Dispatch Terminal and the Positron Viper Mobile Software.

The GPS and AVL systems are automatically activated each time an officer logs on their Positron Viper Mobile Software. The GPS software has the capability to display the vehicles position on a GIS map in the Viper Mobile Software for the officer to view. Tiburon Mobile Software is integrated with the Viper CAD (Computer Aided Dispatch) software used by the Stanislaus Regional 911.

Authorized users of the CAD system can also view a vehicles location using this CAD software. CAD users will include but are not limited to employees of the Stanislaus Regional 911, TRU (telephone reporting unit) users, station officer positions, watch commander positions, etc.
301.4 SITUATIONS FOR USE
The AVL/GPS software in the vehicle can be used by the mobile user to view their vehicle location and the locations of other mobile users in the field. A mobile user of AVL/GPS will see their own vehicles location and the location of the incident they are dispatched to be displayed on the map. When dispatched to an incident, a mobile user has the option to also see the locations of other users that are dispatched to the same incident.

AVL/GPS can be utilized in both emergency and non-emergency situations to assist with resource location, resource placement, direction of travel, number of units involved, and topography of pursuit; also resource management and placement of units during establishment of crime scene perimeters and area searches.

301.5 SYSTEM SECURITY
Users of the AVL/GPS software will not, in any manner, attempt to modify, alter, erase, or tamper with any capability of the system or any of the GPS/AVL hardware or software. At no time shall any employee tamper with or attempt to, manipulate, interrupt the signal, or disconnect the AVL/GPS system antenna.

It is expected that any employee operating a vehicle equipped with a mobile computer terminal will log on to the ViperMobile system software. Any exception to not using the ViperMobile software shall be approved by the employee’s supervisor.

Users of the AVL/GPS software that is malfunctioning or not working properly will report the issues, as soon as practical but no later than the end of their shift, on a Vehicle Deficiency Report and shall exchange their vehicle for one with properly functioning AVL/GPS system when practical to do so.

All public or media requests for system AVL/GPS data will be referred to the Custodian of Records.

301.6 ACCESS TO STORED AVL/GPS DATA AND SYSTEM PLAYBACK FEATURE
Vehicle location data for AVL/GPS shall be considered stored at the point it is not viewed in the live mapping system in the Viper Mobile System or CAD. The CAD software has the capability to play back a GPS/AVL users location from a CAD terminal. This playback feature allows the CAD user to graphically view the users previously stored locations on the GIS map in CAD. The playback feature available in CAD may be used to assist in reconstructing and documenting users movements during an incident, such as a vehicle pursuit or other similar situation with vehicle location changes.

All other accesses to stored AVL/GPS data shall be restricted employees conducting authorized investigation, such as but not limited to, a personnel complaint, internal affairs investigation, criminal investigation, or alleged misconduct.

Storage of data will be retained on the CAD system at Stanislaus Regional 911 for a period not to exceed three years.
High Risk Missions

304.1 PURPOSE AND SCOPE
This policy provides guidelines that will enable personnel to plan and execute high-risk missions. Additionally this policy establishes a review by a supervisor to ensure that all reasonable risk mitigation has been considered, and establishes a mid-management or executive review and approval prior to the execution of a high-risk mission.

304.1.1 DEFINITIONS
Definitions related to this policy include:

High-risk missions – Pre-planned enforcement operations which are likely to present higher risks than are commonly faced by officers on a daily basis. Situations where there is a probability for a violent confrontation, suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate a law enforcement response.

Pre-planned Enforcement Operations – Operations that are long-term in nature, or where one or more days, or several hours may elapse before the high-risk operation is conducted; any high-risk situation that allows for careful planning.

Known Gang House – A dwelling is considered a “known gang house” when there is knowledge or documentation of confirmed gang members who congregate at the dwelling. The mere fact a documented gang member may, or may not, reside at the residence should not be the sole determining factor. Any dwelling where documented gang members assemble should be considered a known gang house.

Known Drug House – A dwelling is considered a “known drug house” when there is knowledge or documentation that the dwelling is used for the purposes of selling and/or using illegal controlled substances. The mere fact that a drug user resides at a dwelling does not automatically make the dwelling a “known drug house

304.2 POLICY
It is the policy of the Modesto Police Department to properly plan and carry out high-risk operations. The tactics used to accomplish these missions will be formulated on an individual, case-by-case basis, based upon the known, verified facts of each case and the totality of the circumstances – not upon stereotypes of similar cases. The primary concern should be, why these tactics and why now?

304.3 PROCEDURES
304.3.1 TACTICAL OPERATIONS PLAN
Personnel shall complete a Tactical Operations Plan for every pre-planned high-risk mission. At a minimum, a Tactical Operations Plan should describe the case background, objectives and goals of the unit performing the operation. Tactical Operation Plan objectives should contain how the unit will carry out the operation (e.g., surveillance, take downs, vehicle containment tactics,
High Risk Missions

etc.). Additionally the Tactical Operations Plan should address foreseeable contingencies (e.g., pursuits, runners, ruses, standing-down etc.) as well as, providing a reasonable response to these unfolding events.

The Tactical Operations Plan describes the location, vehicles, and suspects involved in an investigation as well as their gang association and criminal history. It addresses potential unknowns, children, and animals that may be encountered as well as, how to deal with these in the event they are present at the time of execution. It identifies the case officer/detective and those who will be participating in the operation. It provides contact information for local agencies, hospitals, and outside support agencies that assist with deconfliction issues. If available, Tactical Operations Plans shall contain the following:

(a) Photographs of suspect(s), residence(s), and vehicle(s)
(b) Significant arrest and conviction information for each known suspect(s)
(c) Gang association or affiliation for each known suspect(s)
(d) Additional photographs, arrest information, and gang association for anyone not a suspect believed to be present during the high-risk mission

304.3.2 RISK ASSESSMENT MATRIX
Personnel shall complete a Risk Assessment Matrix for every pre-planned mission. A separate Risk Assessment matrix is required for each location. A Risk Assessment Matrix provides a reasonable review of contemporary law enforcement databases to attempt to:

(a) Verify the identity of the suspect
(b) Verify the location to be searched and the nexus of the suspect to the location
(c) Determine to the extent possible the likelihood of children or innocent bystanders being present
(d) Research the suspect’s and associate’s prior criminal history and propensity for flight or to resort to violence or the use of weapons
(e) Gain as much intelligence data as possible to ensure that the tactical plan has accounted for as many safety factors and tactical options as possible, including background information on all subjects anticipated to be potentially associated with the target subject or location at the time of execution.

304.3.3 UNDERCOVER OPERATIONS RISK ANALYSIS
Personnel performing undercover operations shall complete the Undercover Operations Risk Analysis. This evaluates the risk level of the undercover operation being especially aware of the critical elements involved.

304.4 GUIDELINES
The Tactical Operations Plan should provide the foundation for the Risk Assessment Matrix or Undercover Operations Risk Analysis score. The tactics used, number of personnel involved, and
the level of force will be commensurate with the seriousness of the crime, the perceived potential for violent resistance, and risk of harm to officers, suspects, and innocent bystanders.

All personnel involved in the high-risk mission shall be identifiable as a peace officer from the front and back. Additionally, all personnel involved in the high-risk mission shall wear their department issued ballistic vests and helmet. Exceptions may be made by the supervisor for personnel who are conducting surveillance or working undercover. However, those members exempt from visual identification and safety equipment should be able to transition to visible law enforcement officers wearing safety equipment at the time of enforcement actions, such as entries or arrests. If unable to make this transition, absent exigent circumstances, all personnel will avoid visible participation of any kind in the mission. Any high-risk mission should have at a minimum one marked black and white patrol car, clearly visible at the time of execution. Marked SWAT vehicles are also acceptable.

The author of the Tactical Operations Plan, Risk Assessment Matrix, and Undercover Operations Risk Analysis is responsible for intelligence information contained in the plan. Terms such as “armed and dangerous”, “escape risk”, or “will resist arrest” must be based upon articulable facts stated in the Tactical Operations Plan. No crime type, suspect, or location information can be given a stereotypical label such as “usual grow house security systems” unless that fact has been verified.

The Tactical Operations Plan, Risk Assessment Matrix, and Undercover Operations Risk Analysis shall be turned into the Investigation Services Division (ISD) Administrative Assistant and maintained as part of a separate intelligence file in the ISD for a minimum retention period of two years in accordance with the Retention Policy. Documents containing confidential personnel information or the identity of informants or other normally protected information shall not be included in the permanent case file.

304.5 SUPERVISOR RESPONSIBILITIES
The Tactical Operations Plan, Risk Assessment Matrix, and Undercover Operations Risk Analysis shall be prepared in advance and reviewed by the unit supervisor before it is approved by a Lieutenant or higher rank prior to implementation of the plan. Additionally, supervisors shall review search warrants prior to the implementation of any high risk mission.

Given that no policy can realistically predict every possible situation a unit might encounter, supervisors are entrusted to use well-reasoned discretion in determining the appropriate course of action when faced with unfolding developing circumstances.

The unit supervisor shall ensure that all participants are visually identifiable as law enforcement officers from the front and back as well as, ensure the appropriate safety equipment is worn during the high-risk mission.

Case officers/detectives and supervisors shall confer and determine the level of risk involved. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.
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If the Risk Assessment Matrix score determines or the unit supervisor believes, the high-risk operation is outside the capabilities of their unit, the unit supervisor shall consult with the Crisis Response Unit in order to further evaluate what resources are needed to safely carry out the high-risk mission. Some of these resources might include:

(a) Crisis Response Unit (CIT and SWAT)
(b) Additional personnel
(c) Outside agency assistance
(d) Special equipment
(e) Medical personnel
(f) Negotiators
(g) Additional surveillance
(h) Canines

304.6 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.

Absent any operational security reasons, the lead investigator or designee should ensure the subject of an investigation has been entered in an applicable deconfliction system to determine if there is reported conflicting activity from other jurisdictions. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. Personnel should also enter relevant updated information when it is received.

In the event of any conflict with an outside agency, the lead investigator will notify their immediate supervisor and take all necessary steps to contact the involved jurisdiction to resolve the potential conflict before proceeding.

304.7 OPERATIONS BRIEFING
A briefing shall 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, contingencies, ask questions, and seek clarification as needed.

(a) The briefing shall include a verbal review of planned elements. Visual aids to enhance the understanding of the operation are encouraged.

(b) All participants should be provided a copy of the operations plan. If the operation entails a search warrant, participating personnel shall be informed of the items to be seized and the specific areas to be searched.
High Risk Missions

(c) Prior to the operations briefing, the unit supervisor should provide a copy of the approved operations plan to the on-duty Watch Commander, the Operations Division Commander, and the Investigations Division Commander.

1. It will be incumbent upon the on-duty Watch Commander to brief their field supervisors of the pending operation so they are aware, and if need be, prepared to provide additional support if necessary.

304.8 OUTSIDE LAW ENFORCEMENT AGENCIES
If an outside law enforcement agency comes to Modesto to serve an arrest warrant, search warrant, or perform some other law enforcement duty, the following procedures will be followed:

(a) If an outside agency requests Modesto Police Department's assistance, all the provisions of this policy shall be followed, including completing a Tactical Operations Plan and Risk Assessment Matrix prior to the use of Modesto Police personnel.

(b) With any request from an outside law enforcement agency, a Watch Commander or Lieutenant shall review the operation to ensure there is sufficient probable cause or other legal justification to conduct the operation.

(c) Modesto Police Department personnel engaged in mutual aid operations or assigned to joint task forces shall abide by this policy.

(d) This does not apply to in-progress emergency requests for assistance from outside law enforcement agencies

304.9 OPERATIONS DEBRIEFING
High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. The goal of the debriefing is to determine what went well, what needs improvement, as well as, identifying potential training to better enhance the units capabilities for future high-risk missions

304.10 CRIMES IN PROGRESS
The provisions of this policy are intended for operations that are long-term in nature, or where several hours or one or more days will elapse before the operation will occur and time allows for careful planning.

This policy is not intended for routine traffic stops, field interviews, or enforcement action associated with day-to-day response to 9-1-1 calls for service, crimes in progress, exigent circumstances, or rapidly developing investigations.

304.11 REVISIONS
Adopted February 1, 2017
Handcuffing and Restraints

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

306.2 POLICY
The Modesto 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.

306.3 USE OF RESTRAINTS
Only members who have successfully completed Modesto 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.

306.3.1 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.

306.3.2 RESTRAINT OF PREGNANT PERSONS
Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

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

306.3.3 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.

306.3.4 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.

306.4 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.

306.5 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 mucus) to others.

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

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

306.6 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.

306.7 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).

306.7.1 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.
Handcuffing and Restraints

(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).

306.8 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.

306.9 TRAINING

Subject to available resources, the Training Sergeant 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.
306.10 REVISIONS
Adopted October 1, 2014

• Revised January 1, 2020
Control Devices and Techniques

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

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

308.3 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, 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.

308.4 RESPONSIBILITIES

308.4.1 SUPERVISOR RESPONSIBILITIES
A supervisor may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

308.4.2 PROPERTY & EVIDENCE RESPONSIBILITIES
The Evidence and Property Unit shall control the inventory and issuance of batons and OC spray issued by the department, 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 field supervisors during the bi-annual uniform inspections. The inspection shall be documented.

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

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Evidence and Property Unit for disposition or repair. A Damaged Equipment Report shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

308.5 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.

26”-36” straight batons, black in color; PR 24 side handle; and expandable batons of 14”, 21”, 24”, 26”, 29” or 31” are batons approved by the Chief of Police. The Department will issue the 26” straight baton. The 42” Bokken baton is issued by the department to Equestrian Unit personnel. All other authorized batons shall be purchased through a reputable police supply company at the employee’s expense. Homemade batons are not authorized.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

308.6 TEAR GAS GUIDELINES
Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander, Crisis Response Unit Commander, or SWAT 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 and/or EMS 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.

308.7 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.

308.7.1 OC SPRAY
Uniform personnel carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.
308.7.2 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.

Pepper projectiles shall not be used on a crowd without prior supervisory approval. 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.

RED Projectiles:
Individuals, 0-60 feet, Area Saturation up to 150 feet

PURPLE Projectiles:
Individuals, 0-60 feet, Area Saturation *N/A*

WHITE Projectiles:
Individuals, 0-30 feet, **Not to be used on humans**

308.7.3 TREATMENT FOR OC SPRAY EXPOSURE
Persons who have been sprayed with or otherwise affected by the use of OC should be provided with water to cleanse the affected areas as soon as practicable. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

308.8 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.

308.9 BEAN BAG SHOTGUN
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. The 12 gauge bean bag rounds should never be deployed against a woman who is known to be or visibly pregnant.

12 gauge drag stabilized bean bag rounds have an optimal range of 5 to 20 yards. At a distance of less than 5 yards, a bean bag round should not be used as an impact munitions.
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The bean bag shotgun shall be carried with the 12 gauge bean bag rounds contained in the side saddle of the weapon or in a munitions carrier that is attached to the shotgun. Neither the chamber nor shotgun magazine shall be loaded until deployment. The loading of the bean bag rounds should be witnessed by a second officer, if feasible. Only department issued 12 gauge bean bag munitions will be carried on or deployed with the bean bag shotgun. No other 12 gauge munitions shall be loaded into a bean bag shotgun or attached to the weapon.

In circumstances permitting where tactically feasible, the officer deploying the bean bag should call out "BEAN BAG" at least once, loud enough for others to hear prior to deployment.

308.10 TRAINING FOR CONTROL DEVICES
The Training Supervisor 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.

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

308.12 REVISIONS
Adopted October 1, 2014

• Revised January 1, 2017
• Revised March 1, 2017
Conducted Energy Device

309.1 PURPOSE AND SCOPE
This policy provides guidelines for the issuance and use of TASER devices.

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

309.3 ISSUANCE AND CARRYING TASER DEVICES
Only members who have successfully completed department-approved training may be issued and carry the TASER device. On duty uniformed officers shall carry a TASER with them at all times. TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

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

All TASER devices shall be spark tested prior to every shift for a full 5 seconds (per Axon/TASER). To prevent training scars, Officers should remove their TASER from their holster at the end of their shift and place it on a shelf in their locker. While putting on their gear prior to the next shift, Officers then should retrieve their TASER from the shelf in their locker, remove the TASER cartridge, spark test the TASER for the full 5 seconds, reattach the cartridge and then holster the TASER. This will remove the muscle memory developed as it relates to drawing the TASER from the holster.

When carried, officers either in uniform or in plain-clothes, shall carry the TASER device in a weak-side holster on the side opposite the duty weapon. The TASER shall not be carried on the same side or in the same proximity as the Officer’s duty weapon or back-up weapon.

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

(b) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.

(c) Officers shall not hold, display, or manipulate both a firearm and the TASER device at the same time.
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309.4 VERBAL AND VISUAL WARNINGS
A verbal warning of the intended use of the TASER 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:

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer’s lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device - with the exception of the TASER X2), or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

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

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

309.5.1 APPLICATION OF THE TASER DEVICE
The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

(a) The subject is violent or is physically resisting.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

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

309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS
The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:
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(a) Individuals who are known to be pregnant.
(b) Elderly individuals or obvious juveniles.
(c) Individuals with obviously low body mass.
(d) Individuals who are handcuffed or otherwise restrained.
(e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
(f) Individuals whose position or activity may cause great bodily injury (e.g., falls from height, operating vehicles).

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

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

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

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

(a) Whether the probes are making proper contact.
(b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
(c) Whether verbal commands, other options or tactics may be more effective.

Officers should generally not intentionally apply more than one TASER device at a time against a single subject.

309.5.5 DRIVE STUN MODE
Because the application of the TASER device in the drive-stun mode (i.e. direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be
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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.

The TASER functions in a stun mode after the probes have been fired, or the cartridge has been removed. The Drive Stun Mode can be performed while a deployed air cartridge is still connected to the TASER. To use the Drive Stun Mode without firing the probes, remove the live cartridge while the TASER is turned off.

The Drive Stun Mode is strictly for pain compliance. It can be overcome by individual(s) under the influence of drugs and/or alcohol, Emotionally Disturbed Persons (EDPs) or by focused, combative individuals.

For maximum effectiveness in Drive Stun Mode, drive the TASER into these areas:

- (a) Radial (forearm)
- (b) Common peronial (Outside of thigh)
- (c) Tibial (calf muscle)

The Drive Stun Mode to the neck or groin areas should only be targeted when Officers are defending themselves from violent attacks.

309.5.6 ACTIONS FOLLOWING DEPLOYMENTS
Officers shall notify a supervisor of all TASER device discharges. AFID tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

309.5.7 DANGEROUS ANIMALS
The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective. The deployment of the TASER on animals, shall be documented in a police report.

309.6 DOCUMENTATION
Officers shall document all TASER device discharges in the related arrest/crime report and the Use of Force reporting. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges will be documented in a memorandum and reported to a supervisor.

309.6.1 REPORTS
The officer should include the following in the arrest/crime report and the Use of Force reporting:

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

309.7 MEDICAL TREATMENT
Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel or certified users trained in removal of the probes should remove TASER device probes from a person's body. Used TASER device 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 TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

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

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

309.8 SUPERVISOR RESPONSIBILITIES
A supervisor should respond to all incidents where the TASER device was used.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port and saved with the related Use of Force reporting. Photographs of probe sites should be taken and witnesses interviewed.
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309.9 TRAINING
Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training.

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

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

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

The Training Supervisor is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The Training Supervisor should ensure that all training includes:

(a) A review of this policy.
(b) A review of the Use of Force Policy.
(c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
(d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
(e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.
(f) De-escalation techniques.
(g) Restraint techniques that do not impair respiration following the application of the TASER device.

309.10 REVISIONS
Adopted October 1, 2014

• Revised April 1, 2016
• Revised May 1, 2019
Officer-Involved Shootings and Deaths

310.1 PURPOSE AND SCOPE
The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of an officer.

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

310.2 POLICY
The policy of the Modesto Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner. This department conforms to the Officer Involved Shooting protocol for investigating officer-involved shootings.

310.3 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.

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

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

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

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

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

310.4.3 ALLIED AGENCY’S OFFICER WITHIN THIS JURISDICTION
The Modesto Police Department is responsible for the criminal investigation of the suspect’s actions, and the investigation of the officer-involved shooting. The officer’s employing agency will be responsible for any civil and/or administrative investigation(s), and will be invited to accompany Homicide Team members during our investigation.

310.4.4 MODESTO 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 Modesto Police Department will conduct timely administrative investigations.

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

310.5.1 UNINVOLVED OFFICER RESPONSIBILITIES
Upon arrival at the scene of an officer-involved shooting, the first uninvolved Modesto PD 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.

310.5.2 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 Division Commander.

All outside inquiries about the incident shall be directed to the Watch Commander.
310.5.3 NOTIFICATIONS
The following person(s) shall be notified as soon as practicable:

- Chief of Police
- Investigative Services Division Commander
- Investigative Services Division rollout team
- Outside agency investigator (if appropriate)
- Internal Affairs Unit supervisor
- Civil liability response team
- Psychological/peer support personnel
- Chaplain
- Coroner (if necessary)
- Involved officer’s agency representative (if requested)
- Public Information Officer
- Modesto Police Officer’s Association

310.5.4 SUPERVISOR RESPONSIBILITIES
Upon arrival at the scene, the first uninvolved Modesto PD 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.
   (a) 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 Modesto PD 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 Stanislaus Regional 9-1-1. If feasible, sensitive information should be communicated over secure networks.

(d) Take command of and secure the incident scene with additional Modesto PD members until properly relieved by another supervisor or other assigned personnel or investigator.
Officer-Involved Shootings and Deaths

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

1. Each involved Modesto PD officer should be given an administrative order not to discuss the incident with other involved officers or Modesto PD 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.

310.5.5 INVOLVED OFFICERS
The following shall be considered for the involved officer:

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

1. Involved Modesto PD 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-Modesto PD 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 Modesto PD officer. A licensed psychotherapist may also be provided to any other affected Modesto PD 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. This will include the Modesto Police Department cellphone issued to the officer. Department cellphone ESI data shall be recovered and the cellphone returned to the officer.
Officer-Involved Shootings and Deaths

Each involved Modesto PD 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.

310.5.6 NOTIFICATION TO DEPARTMENT OF JUSTICE
The California Department of Justice (DOJ) is required to investigate an officer-involved shooting resulting in the death of an unarmed civilian. The Watch Commander should promptly notify the DOJ in all incidents involving an officer-involved shooting resulting in the death of an unarmed civilian, including where it is undetermined if the civilian was unarmed.

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

310.6 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) Modesto PD supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of Modesto PD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.

(b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). However, in order to maintain the integrity of each involved officer’s statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.

(c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.

(d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

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

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

310.6.2 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.
310.6.3 INVESTIGATIVE PERSONNEL
Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Investigative Services Division 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 Investigative Services Division supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

The VCU sergeant shall be responsible for completing the Blue Team entry for the use of force and forward via chain of command to the Investigative Services Division Captain.

310.7 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 Modesto PD officers to determine conformance with department policy. The investigation will be conducted under the supervision of the Internal Affairs Unit and will be considered a confidential officer personnel file.

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

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

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

7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

310.8 AUDIO AND VIDEO RECORDINGS
Any officer involved in a shooting or death may be permitted to review available body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports. Officers involved in a shooting or death shall not review any video footage of the incident without prior approval from a supervisor or ISD personnel investigating the incident.

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

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

310.9 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.
310.10 MEDIA RELATIONS
Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Watch Commander, Investigative Services Division Commander and Public Information Officer in the event of inquiries from the media.

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

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

310.12 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
- Revised September 1, 2016
- Revised July 1, 2018
- Revised February 1, 2020
- Revised April 1, 2020
- Revised August 1, 2020
- Revised September 1, 2021
- Revised January 1, 2022
Firearms

312.1 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.

312.2 POLICY
The Modesto 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.

312.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS
Members shall only use firearms that are issued or approved by the Department. 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 a department authorized range.

All other weapons not provided by the Department, including, but not limited to, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the member’s Division Commander.

312.3.1 HANDGUNS
The authorized department-issued handguns are Glock Models G17, G19, G21, G26 and G30 in 9mm or 45 ACP. The following additional handguns are approved for on-duty use:

<table>
<thead>
<tr>
<th>MAKE</th>
<th>CALIBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beretta</td>
<td>9mm or .45 ACP</td>
</tr>
<tr>
<td>Colt</td>
<td>9mm or .45 ACP</td>
</tr>
<tr>
<td>Ed Brown</td>
<td>9mm or .45 ACP</td>
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<tr>
<td>Glock</td>
<td>9mm or .45 ACP</td>
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<tr>
<td>Kimber</td>
<td>9mm or .45 ACP</td>
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<td>Les Baer</td>
<td>9mm or .45 ACP</td>
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<tr>
<td>Nighthawk</td>
<td>9mm or .45 ACP</td>
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<tr>
<td>Para Ordnance</td>
<td>9mm or .45 ACP</td>
</tr>
<tr>
<td>Remington</td>
<td>9mm or .45 ACP</td>
</tr>
<tr>
<td>Ruger</td>
<td>9mm or .45 ACP</td>
</tr>
</tbody>
</table>
Semantic Technology Institute International (STI) 9mm or .45 ACP
Sig Sauer 9mm or .45 ACP
Springfield Armory 9mm or .45 ACP
Smith & Wesson 9mm or .45 ACP
Wilson Combat 9mm or .45 ACP

Approved finish will be polished blue, Cerakote (dark blue or black), K-Coat (dark blue or black), matte black, matte blue, satin chrome, stainless steel, Tenifer or factory Parkerized (dark blue or black) coating.

Grips must be dark in color, standard commercial type, made of wood, plastic, laminate, metal or rubber. Stag, ivory or ornamented grips are not permitted.

312.3.2 SHOTGUNS
The authorized department-issued shotgun is the Remington 870. The following additional shotguns are approved for on-duty use:

<table>
<thead>
<tr>
<th>MAKE</th>
<th>MODEL</th>
<th>CALIBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benelli</td>
<td>Super 90</td>
<td>12 gauge</td>
</tr>
</tbody>
</table>

An Officer owned Remington brand, 12 gauge pump action shotgun, model 870 series minimum characteristics will be:

(a) Polished or matte blue, parkerized or alternate finish, black in color
(b) Barrel length 18-20 inches
(c) Fixed stock, dark wood or black plastic; or collapsible stock in black plastic.
(d) Rifle or "ghost ring" type sights
(e) Side saddle ammunition carrier
(f) Sling

Additional accessories are approved, but not limited to:

(a) Forend weapon light
(b) Extended magazine tube
(c) Recoil pad
(d) Pistol grip

The Firearms Manager or his/her designee must authorize all other accessories and/or modifications. Installation of accessories and/or weapon modifications must be completed by a department approved armorer or licensed gunsmith.
When not deployed, the shotgun shall be properly secured in a locking weapons rack in the patrol vehicle with the magazine loaded, the action closed on an empty chamber, the trigger pulled to release the hammer and the safety in the safe position.

312.3.3 PATROL RIFLES
The authorized department-issued patrol rifle is the Colt AR-15, Colt M4 or the Heckler & Koch platform. Officers may deploy a personally owned rifle that is chambered in .223/5.56mm that has been approved by the Armory Supervisor.

Members who have attended and successfully completed the departments Patrol Rifle Course or who have attended and successfully completed a P.O.S.T. approved 80 hour Special Weapons and Tactics course are authorized to carry a department issued or personally owned rifle.

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

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

An officer deploying a rifle should function only as a cover officer, with no other duties such as searching or handcuffing, until the weapon is secure in their city vehicle.

Urban Rifle Operators shall not be used in lieu of SWAT.

Any qualified officer carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition until deployed. A rifle is considered in a patrol ready condition when it has been inspected by the assigned officer, the fire selector switch is in the safe position, the dust cover is closed, the chamber is empty and a loaded magazine is inserted into the magazine well.

312.3.4 PERSONALLY OWNED DUTY FIREARMS

(a) The firearm shall be in good working order and on the department list of approved firearms.
(b) Prior to carrying the firearm, members shall qualify under range staff supervision and thereafter shall qualify in accordance with the department qualification schedule as outlined in 312.7.
312.3.5  AUTHORIZED SECONDARY HANDGUN

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

(a) The firearm shall be in good working order and on the department's list of approved firearms, see section 312.3.1. Secondary firearms, also approved, include:

1. Smith & Wesson - .38 Special / .357 magnum revolvers
2. Colt - .38 Special / .357 magnum revolvers
3. Ruger - .38 Special / .357 magnum revolvers
4. Smith & Wesson - .380 ACP / 9mm / .45 ACP
5. Colt - .380 ACP / 9mm / .45 ACP
6. Ruger - .380 ACP / 9mm / .45 ACP
7. Beretta - .380 / 9mm / .45 ACP
8. Sig Sauer - .380 / 9mm / .45 ACP
9. Glock - .380 / 9mm / .45 ACP

(b) Grips must be dark in color, standard commercial type, made of wood, plastic, metal or rubber. Stag, ivory or ornamented grips are not permitted.

(c) The purchase of the firearm shall be the responsibility of the officer.

(d) The firearm shall be carried out of sight at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

(e) Ammunition shall be the same as department issue.

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

312.3.6  AUTHORIZED OFF-DUTY FIREARMS

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

(a) The firearm shall be of good quality and workmanship and approved by the Department. The approved calibers are .380 ACP / .38 SPL / 9mm / .45 ACP.

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

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

(d) Prior to carrying any off-duty firearm, the officer shall demonstrate to the Range Master that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
Firearms

(e) The officer will successfully qualify with the firearm prior to it being carried and thereafter twice a year. The range qualification dates will be specified by the Training Unit.

(f) A complete description of the firearm shall be contained on the qualification record.

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

(h) Officers shall only carry department-authorized ammunition.

(i) When armed, whether on- or off-duty, officers shall carry their badge and/or department identification.

312.3.7 AMMUNITION
Members shall carry only department authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all firearms during the member’s firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Armorer or Range Master when needed, in accordance with established policy.

312.4 SWAT FIREARMS
In addition to the department approved firearms listed in this policy, SWAT team members are also authorized to carry the following rifle platforms:

- Colt AR-15
- Colt M4
- Heckler & Koch 416
- Heckler & Koch MP5

SWAT team members assigned to the scout/sniper team are also authorized to carry rifles equipped with optics in 5.56/.223 caliber and .308 caliber. These may include the Remington platform, the AR-10 platform, or any other long rifle platform approved by the Chief of Police or designee. SWAT officers carrying a rifle in the field shall maintain the weapon in a patrol ready condition until it is deployed. Refer to the Patrol Rifles section for a description of patrol ready.

312.4.1 SWAT FIREARMS - SPECIALTY PLATFORM
The following specialty munitions delivery arms are authorized to be carried/deployed only during SWAT operations, or with the express approval from the SWAT Commander or designee, or during exigent circumstances:

- 37mm/40mm launcher (commonly manufactured brand)
- 37mm/40mm multi-launcher (commonly manufactured brand)
- 12 gauge breaching shotgun (Remington 870)
- 12 gauge shotgun with cup launcher (Remington 870)
12 gauge distractionary device/aerial shotgun (Remington 870)

312.4.2 SWAT FIREARMS - SPECIALTY MUNITIONS
The following specialty munitions are authorized to be carried/deployed during SWAT operations only, or with the express approval from the SWAT Commander or designee, or during exigent circumstances:

- 37mm/40mm specialty munitions
- 12 gauge breaching rounds
- 12 gauge launching rounds
- 12 gauge distractionary device/aerial rounds
- Sub-sonic ammunition in calibers 9mm/.45 ACP
- .308 Winchester

SWAT specialty munitions will be factory manufactured by reputable companies, such as Federal, Hornady, Remington, CTS, Defense Technologies, or the like.

312.5 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.

312.5.1 REPAIRS OR MODIFICATIONS
Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor or the Armorer.

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. Such modification or repair must be authorized in advance by the Armorer Supervisor.

Any repairs or modifications to the member’s personally owned firearm shall be done at his/her expense and must be approved by the Armorer Supervisor.

312.5.2 HOLSTERS
Only department-approved holsters shall be used and worn by members while on duty. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun. No additional item or equipment shall be affixed to any holster designed to carry a firearm.

312.5.3 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 Armory Supervisor. 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.
Firearms

312.5.4 OPTICS OR LASER SIGHTS
Optics or laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Armorer Supervisor. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

If an optic is put on a rifle or handgun, mechanical sights must also be present and placed in such a manner to allow officers to obtain a sight picture with the mechanical sights. Officers must sight in both the mechanical sights and the optic sight and qualify with 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.

312.6 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 Range Master.

(c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where cleaning barrels are present.

(d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle. The muzzle shall be pointed in a safe direction at all times. If a vehicle containing a weapon must go to Fleet Services or Dealer, any weapon shall be removed from the vehicle and stored in compliance with this policy.

(e) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked.

(f) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department Armorer for inspection. Any firearm deemed in need of repair or service by the 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. The member must qualify with the replacement weapon prior to carrying it.

312.6.1 INSPECTION AND STORAGE
Handguns shall be inspected regularly and upon access or possession by another person. Shotguns and rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and
loaded with approved ammunition. Inspection of the shotgun and rifle shall be done while standing outside of the patrol vehicle. All firearms shall be pointed in a safe direction or into clearing barrels. Firearms may be safely stored in lockers or another approved location at the end of the shift. Vehicle assigned shotguns shall remain with the vehicle unless the vehicle is taken out of service. Rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

312.6.2 STORAGE AT HOME
Members shall ensure that all firearms and ammunition are 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).

312.6.3 STORAGE IN VEHICLES
When leaving a handgun in an unattended vehicle, members shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently affixed to the vehicle’s interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452). If the vehicle does not have a trunk or a locked container, then the firearm should be locked within the center utility console that can be locked with a padlock, keylock, combination lock, or other similar locking device (Penal Code § 25140). Officers are exempt from these requirements during circumstances requiring immediate aid or action in the course of official duties (Penal Code § 25140).

312.6.4 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, or has taken any drugs or medication, has taken any combination thereof that would tend to adversely affect the member’s senses or judgment.

312.7 FIREARMS TRAINING AND QUALIFICATIONS
All members who carry firearms, to include the patrol rifle, shotgun, duty pistol, off duty pistol, or back up firearm, are required to successfully complete semiannual training during department training days with their assigned or personally owned firearms. Training and qualifications must be on an approved range course.

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

Semiannual firearm training days are mandatory department training days. Members shall follow the guidelines under Training Policy 208.6 if they are unable to attend a firearms training day.
312.7.1 NON-CERTIFICATION OR NON-QUALIFICATION
If any member fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that member shall submit a memorandum to his/her immediate supervisor prior to the end of the required training or qualification period.

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

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

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

(c) No range credit will be given for the following:
   1. Unauthorized range make-up
   2. Failure to meet minimum standards or qualify after remedial training

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

312.8 REPORT OF FIREARM DISCHARGE
Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall notify the on-duty Watch Commander as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shooting 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.

312.8.1 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, TASER® 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 or becomes impractical.

312.8.2 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.
Firearms

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).

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

312.9 RANGE
The range will be under the exclusive control of the Training Unit. All members attending will follow the directions of the Range Master. The Range Master will maintain a roster of all members attending the range and will submit the roster to the Training Supervisor after each range date. Failure of any officer to sign in and out with the Range Master may result in non-qualification.

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

312.9.1 ARMORER DUTIES
The Armorer has the responsibility of making periodic inspections of all duty weapons carried by officers of this department to verify proper operation. The Armorer has the authority to deem any privately owned weapon unfit for service. The officer will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected by the Armorer.

312.10 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 Modesto Police Department identification card, bearing the officer’s name, a full-face photograph, identification number, 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 Modesto Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer’s travel. If approved, TSA will send the Modesto Police Department an NLETS message
containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.

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

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

(f) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.

(g) 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.

(h) Officers should try to resolve any problems through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.

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

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

(a) The officer shall carry his/her Modesto 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.

312.12 REVISIONS
Adopted October 1, 2014
Firearms

- Revised April 1, 2016
- Revised April 5, 2016
- Revised September 1, 2016
- Revised January 1, 2017
- Revised July 1, 2017
- Revised August 1, 2017
- Revised June 1, 2018
- Revised March 1, 2019
- Revised May 1, 2020
- Revised March 1, 2021
Vehicle Pursuits

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

314.1.1 DEFINITIONS
Disengage - Officers actively pursuing will temporarily turn off their lights and sirens to discontinue chasing the suspect's vehicle. With supervisory approval, officers are allowed to re-engage the pursuit.

Failure to Yield - The driver of a vehicle driving in a legal manner but willfully failing to yield to an officer's signal to stop. This will not be considered a vehicle pursuit.

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.

Surveillance Mode - A response in which the air unit, marked or unmarked police vehicles, or other tactics are used as an observation platform for continued surveillance of a motor vehicle after pursuing officers disengaged from the pursuit. Operating a surveillance mode allows officers on the ground to work in conjunction with other observation platforms to maintain a loose containment of the motor vehicle until the suspect stops or abandons the motor 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 or stop sticks.

Terminate - To discontinue a pursuit.

Trailing - Officers, not involved in the pursuit, may follow the Code-3 policy to respond to the area of the pursuit for purposes of blocking intersections, deploying stop sticks and preparing for a perimeter.

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 or turning suddenly.

314.2 OFFICER RESPONSIBILITIES
Vehicle pursuits shall only be conducted using authorized police department emergency vehicles that are equipped with and displaying emergency lighting and sirens as required by Vehicle Code
Vehicle Pursuits

§ 21055. Officers are responsible for continuously driving with due regard and caution for the safety of all persons and property (Vehicle Code § 21056). Employees shall abide by this policy regardless of their assignment.

314.2.1 WHEN TO INITIATE A PURSUIT
Officers may pursue:

(a) When an officer reasonably believes a felony crime has occurred, is occurring, or is about to occur, employees may pursue a suspect vehicle.

(b) Drivers suspected of driving under the influence of alcohol or drugs.

(c) Persons actively involved in the commission of brandishing or illegal possession of a firearm.

(d) Officers shall not initiate a pursuit based only on an infraction.

314.2.2 FACTORS TO CONSIDER WHEN CONTINUING AND TERMINATING PURSUITS
Officers will continually weigh the seriousness of the offense against the potential dangers to themselves or members of the community and shall consider the following factors when assessing whether to continue or terminate a pursuit:

(a) 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.

(b) Apparent nature of the fleeing suspects (e.g., whether the suspect(s) represent a serious threat to public safety).

(c) Speeds of the pursuit.

(d) Safety of the public in the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic and the speed of the pursuit relative to these factors.

(e) Roadway Conditions (residential, rural, pedestrians, weather and traffic conditions)

(f) The suspect has been identified to the point they can be apprehended at a later time

(g) Quality of radio communication

(h) Other persons in or on the pursued vehicle (e.g. passengers, co-offenders, or hostages)

(i) Officers generally should not engage or participate in pursuits while transporting prisoners, victims, and/or citizens, except for ride-alongs who have signed an "Indemnity and Hold Harmless" agreement

314.2.3 PURSUIT TERMINATION

(a) When a supervisor orders a pursuit to be terminated.

(b) When the pursuing officer has considered the above factors outlined in 314.2.2 and has made the decision to terminate the pursuit.
Vehicle Pursuits

(c) When a pursuit has been terminated the officer shall turn off all emergency equipment and make an overt action, ie., slowing, stopping, turning or some other effort to be out of view of the suspect.

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

Vehicle pursuits should be limited to four vehicles (three 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.

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

314.3.2 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.

Upon a vehicle fleeing from an officer, the officer shall notify SR-911 that a vehicle pursuit has been initiated. As soon as practical, pursuing officers should provide the following information including, but not limited to:

(a) The location, direction of travel, estimated speed of the suspect’s vehicle, and traffic conditions.
(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 need for any additional resources or equipment.
(g) The identity of other law enforcement agencies involved in the pursuit.

Until relieved by a supervisor or secondary unit, the primary officer 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.
Vehicle Pursuits

314.3.3 SECONDARY UNIT RESPONSIBILITIES
The second officer in the pursuit is responsible for:

(a) Immediately notifying the dispatcher of entry into the pursuit.
(b) Coordinating with the primary officer regarding radio traffic and vehicle position in the pursuit.

314.3.4 PURSUIT TACTICS
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. Officers should consider the following:

(a) Officers, considering their driving skills and vehicle performance capabilities

(b) Available units not directly involved in the pursuit may follow the Code-3 policy to get in position to block intersections or further support conclusion of the pursuit

(c) As a general rule, officers should not follow 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. Maintain visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
   2. Request other units to observe exits available to the suspects.

(d) Notify the California Highway Patrol (CHP) and/or other law enforcement agencies if it appears that the pursuit may enter their 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.

314.3.5 PURSUIT TRAILING
Officers should consider their geographical location in the City as compared to the pursuit direction of travel, as well as the number of suspects in the vehicle when responding to a pursuit in progress. Officers should be cognizant in regards to the number of officers already responding to the incident.

314.3.6 AIR SUPPORT ASSISTANCE
Air support assistance should be requested. 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. If ground units maintain operational control of the pursuit, they should continue to provide updated information unless coordinated with the air support unit to take over radio communication. Air support may be used as an observation platform for continued surveillance of a motor vehicle during Surveillance Mode.
314.4 SUPERVISORY CONTROL AND RESPONSIBILITIES
The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for:

(a) Immediately notifying involved units and the dispatcher of supervisory monitoring and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit.

(b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.

(c) Exercising management and control of the pursuit even if not engaged in it.

(d) Ensuring that no more than the required number of units are involved in the pursuit under the guidelines set forth in this policy.

(e) Directing that the pursuit be terminated if, in the supervisor's judgment, it is unreasonable to continue the pursuit under the guidelines of this policy.

(f) Ensuring that assistance from air support, canines, or additional resources is requested, if available and appropriate.

(g) Ensuring that the proper radio channel is being used.

(h) Ensuring that the Watch Commander is notified of the pursuit as soon as practicable.

(i) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this department.

(j) Controlling and managing Modesto 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.

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

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

314.5 STANISLAUS REGIONAL 9-1-1
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.
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314.5.1 STANISLAUS REGIONAL 9-1-1 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.

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

314.6 PURSUIT LEAVING THE CITY
When a pursuit enters another agency's jurisdiction, the primary officer or supervisor should take into consideration the following:

(a) Notifying the affected jurisdictions
(b) Familiarity with the area the pursuit is traveling
(c) If the pursuit is traveling for extended time periods outside of the City, pursuing officers should consider requesting the affected jurisdiction to assume responsibility of the pursuit

314.6.1 ASSUMPTION OF PURSUITS BY ANOTHER AGENCY
When another agency has assumed control over a Modesto Police Department pursuit, officers may, with supervisory approval, continue to assist in the pursuit until Modesto Police assistance is no longer needed. Modesto Police K-9 Officers may be given additional latitude to assist if no other K-9 Unit is currently involved in the pursuit. Upon relinquishing control of the pursuit, the involved officers may proceed, with supervisory approval, to the conclusion 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.

314.6.2 OTHER AGENCY PURSUITS ENTERING MODESTO
The agency that initiates a pursuit is responsible for conducting the pursuit. Modesto Police employees should not join a pursuit unless specifically requested to do so by the pursuing agency and with supervisor approval. The request alone or a single officer is not sufficient grounds
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to join another agency’s pursuit. A supervisor may authorize participation in the pursuit if the reason for the pursuit falls in line with this policy.

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

314.7 WHEN PURSUIT INTERVENTION IS AUTHORIZED
In absence of exigent circumstances, 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.

314.7.1 USE OF FIREARMS
The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon. Officers shall not create their own exigency by intentionally placing themselves in the vehicle’s anticipated path.

314.7.3 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) The PIT should be used after considering the following:

1. The technique should only be used by officers who have received training in the technique, including speed restrictions.
2. Supervisory approval shall be obtained before using the technique.
3. It reasonably appears the technique will terminate or prevent the pursuit.
4. Speeds do not exceed 35 mph and the officer reasonably believes there is an unobstructed roadway, free of vehicular and pedestrian traffic, with a width of 35 feet or more.
5. There is a third police vehicle in the pursuit. Although marked units are preferred, an unmarked police vehicle with activated code 3 equipment may be considered a third vehicle if the officer is equipped with personal protective equipment.

(b) Ramming a fleeing vehicle should only be done after considering the following:

1. When practicable, supervisory approval shall 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 the suspect's actions could cause great bodily injury or death if not immediately stopped.

(c) 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. If practicable, the officer should advise via radio their location and intent prior to deploying the stop sticks.
3. It reasonably appears the use will terminate or prevent the pursuit.
4. 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.

314.7.4 STARCHASE PURSUIT MANAGEMENT SYSTEM
The StarChase system allows a trained officer to remotely affix a GPS tracking device to a vehicle. Officers should consider the following factors prior to deploying StarChase:

(a) Radio traffic should identify the device as "10-54".

(b) StarChase equipped patrol cars, with approval of a supervisor, are authorized to respond Code 3 for potential use of the device.

1. Unless directed otherwise, the StarChase equipped vehicle will join the pursuit at the rear of authorized pursuing vehicles until cleared to pass.
2. Once a StarChase equipped vehicle joins a pursuit, it becomes an authorized unit as it relates to the number of authorized pursuing vehicles.
3. StarChase equipped vehicles may pass other pursuing vehicles only when deemed safe and only with specific permission from the unit to be passed. Permission is to be sought and acknowledged one passing at a time. Officers driving the StarChase equipped vehicle will identify which side of the overtaken vehicle they will pass.

(c) Post-Deployment Consideration:
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1. Once the StarChase tag has been successfully deployed, pursuing vehicles should normally drop back significantly from the suspect vehicle.

2. Officers will maintain constant communication with the StarChase Monitor for speed/direction/location updates of the suspect vehicle.

3. The Supervisor will coordinate with the StarChase Monitor to direct resources and officers to appropriate locations to apprehend the suspect.

4. No officer who is driving a moving patrol car will access the StarChase Monitor data as this creates an unnecessary hazard.

(d) Tactical Considerations

1. The StarChase tag will not normally be deployed in the following situations unless the suspect poses substantial risk to the public.
   
   (a) During heavy rain
   
   (b) While driving on exceptionally rough terrain
   
   (c) On a motorcycle
   
   (d) When pedestrians are between or very near the suspect vehicle and the StarChase equipped vehicle.

(e) In addition to the normal pursuit reporting procedures required by policy, officers who use the StarChase system will report all tag deployments.

314.8 REPORTING REQUIREMENTS

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

(a) The primary officer will complete appropriate crime/arrest reports.

(b) The primary officer will ensure all pursuits are captured on the Watch Report with a #PURSUIT entered into the CAD call.

(c) The field supervisor 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 reviewing sergeant for review and distribution.

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.

314.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

The Training Unit shall make available to all officers initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, and no less than annual training addressing:

(a) This policy.
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(b) The importance of vehicle safety and protecting the public.
(c) The need to balance the known offense and the need for immediate capture against the risks to officers and others (Vehicle Code § 17004.7(d)).

314.8.2 POLICY REVIEW
Officers of this department shall certify in writing that they have received, read, and understand this policy initially, upon any amendments, and whenever training on this policy is provided. The POST attestation form, or an equivalent form, may be used to document the compliance and should be retained in the member's training file.

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

314.10 REVISIONS
Adopted October 1, 2014

- Revised: April 1, 2016
- Revised: September 12, 2018
- Revised: January 1, 2020
- Revised: February 1, 2022
Officer Response to Calls

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

316.2 RESPONSE TO CALLS
Officers dispatched or responding "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.

316.3 REQUESTING EMERGENCY ASSISTANCE
Officer 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, when assistance is needed to prevent imminent serious harm to a citizen, or when responding to a probable felony in-progress property crime. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify Stanislaus Regional 9-1-1 via radio.

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

316.3.1 NUMBER OF UNITS ASSIGNED
The primary and secondary officers assigned to a dispatched call may respond Code-3 in cases where there are specific and articulable reasons for believing that a life-threatening situation exists, or when responding to a probable in-progress felony property crime. Additional officers may respond Code-3 when there are specific and articulable reasons to do so.
Officer Response to Calls

316.4 INITIATING CODE 3 RESPONSE
Recognizing that excessive radio traffic can hinder the transfer of vital and/or pertinent information, officers responding to another officer's request for a Code-3 response should limit unnecessary radio broadcasts. As a result, it shall be deemed acceptable for responding officers to designate their Code-3 response by depressing the “Code-3” button on their MDC.

If an officer believes a Code-3 response to any dispatched call is appropriate, the officer shall immediately notify Stanislaus Regional 9-1-1 via radio. Should other officers believe a Code-3 response is appropriate, they shall also notify Stanislaus Regional 9-1-1 via radio. Upon determining a Code-3 response is appropriate, an officer shall also broadcast the location from which he/she is responding.

316.5 RESPONSIBILITIES OF RESPONDING OFFICER(S)
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 given the traffic and roadway conditions at the time.

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 while observing all traffic laws. In such an event, the officer should immediately notify Stanislaus Regional 9-1-1 via radio of the cancellation of their Code-3 response. An officer shall also discontinue the Code-3 response when directed by a supervisor.

316.6 SUPERVISORY RESPONSIBILITIES
Upon being notified that a Code-3 response has been initiated, the Watch Commander and field supervisors shall be responsible for the following:

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

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

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

316.7 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.
Canines

318.1 PURPOSE AND SCOPE
This policy establishes guidelines for the use of canines to augment police services in the community, including but not limited to locating individuals and contraband and apprehending criminal offenders.

318.2 POLICY
It is the policy of the Modesto Police Department that teams of handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

318.3 ASSIGNMENT
Canine teams should be assigned to assist and supplement the Operations Division to function primarily in assist or cover assignments. However, they may be assigned by the Watch Commander to other functions, such as routine calls for service, based on the current operational needs.

Canine teams should generally not be assigned to handle routine matters that will take them out of service for extended periods of time. If such assignment is necessary, it should only be made with the approval of the Watch Commander.

318.4 CANINE COORDINATOR
The canine coordinator shall be appointed by and directly responsible to the Operations Division or the authorized designee.

The responsibilities of the coordinator include but are not limited to:

(a) Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.
(b) Maintaining a liaison with the vendor kennel.
(c) Maintaining a liaison with command staff and functional supervisors.
(d) Maintaining a liaison with other agency canine coordinators.
(e) Maintaining accurate records to document canine activities.
(f) Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.
(g) Scheduling all canine-related activities.
(h) Ensuring the canine teams are scheduled for regular training to maximize their capabilities.
Canines

318.5 REQUESTS FOR CANINE TEAMS
Operations Division members are encouraged to request the use of a canine. Requests for a canine team from department units outside of the Operations Division shall be reviewed by the Watch Commander.

318.5.1 OUTSIDE AGENCY REQUEST
All requests for canine assistance from outside agencies must be approved by the Watch Commander and are subject to the following:

(a) Canine teams shall not be used for any assignment that is not consistent with this policy.
(b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
(c) If there is no canine team on duty, requests for the on-call canine team shall be approved by the Watch Commander or field supervisor.
(d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
(e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

318.5.2 PUBLIC DEMONSTRATIONS
All public requests for a canine team shall be reviewed and, if appropriate, approved by the canine unit supervisor prior to making any resource commitment. The canine supervisor is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Canine handlers shall not demonstrate any apprehension work unless authorized to do so by the canine supervisor.

318.6 APPREHENSION GUIDELINES
A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has committed, is committing, or is threatening to commit any serious offense and if any of the following conditions exist:

(a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer, or the handler.
(b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
(c) The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine.
Canines

Absent a reasonable belief that a suspect has committed, is committing, or is threatening to commit a serious offense, mere flight from a pursuing officer, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Watch Commander. Absent a change in circumstances that presents an imminent threat to officers, the canine or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable.

If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the canine to release the suspect.

318.6.1 PREPARATION FOR DEPLOYMENT
Prior to the use of a canine to search for or apprehend any suspect, the canine handler and/or the supervisor on-scene should carefully consider all pertinent information reasonably available at the time. The information should include but is not limited to:

(a) The nature and seriousness of the suspected offense.
(b) Whether violence or weapons were used or are anticipated.
(c) The degree of resistance or threatened resistance, if any, the suspect has shown.
(d) The suspect’s known or perceived age.
(e) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.
(f) Any potential danger to the public and/or other officers at the scene if the canine is released.
(g) The potential for the suspect to escape or flee if the canine is not utilized.

As circumstances permit, the canine handler should make every reasonable effort to communicate and coordinate with other involved members to minimize the risk of unintended injury.

It is the canine handler’s responsibility to evaluate each situation and determine whether the use of a canine is appropriate and reasonable. The canine handler shall have the authority to decline the use of the canine whenever he/she deems deployment is unsuitable.

A supervisor who is sufficiently apprised of the situation may prohibit deploying the canine.

Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.
Canines

318.6.2 WARNINGS AND ANNOUNCEMENTS
Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used if the suspect does not surrender should be made prior to releasing a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary.

In the event of an apprehension, the handler shall document in any related report whether or not a verbal warning was given and, if none was given, the reasons why.

318.6.3 REPORTING DEPLOYMENTS, BITES, AND INJURIES
Handlers should document canine deployments in a canine use report. Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified and the injuries documented in the canine use report. The injured person shall be promptly treated by Emergency Medical Services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the canine coordinator. Unintended bites or injuries caused by a canine should be documented in an administrative report, not in a canine use report.

If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual’s injured and uninjured areas shall be photographed as soon as practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

Canines used by law enforcement agencies are generally exempt from impoundment and reporting requirements. However, the canine shall be made available for examination at any reasonable time if requested by the local health department. The canine handler shall also notify the local health department if the canine exhibits any abnormal behavior after a bite (Health and Safety Code § 121685).

318.7 NON-APPREHENSION GUIDELINES
Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible for determining the canine’s suitability for such assignments based on the conditions and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation, the following guidelines apply:

(a) Absent a change in circumstances that presents an imminent threat to officers, the canine, or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.
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(b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

(c) Throughout the deployment, the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.

(d) Once the individual has been located, the handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.

318.7.1 ARTICLE DETECTION
A canine trained to find objects or property related to a person or crime may be used to locate or identify articles. A canine search should be conducted in a manner that minimizes the likelihood of unintended bites or injuries.

318.7.2 NARCOTICS DETECTION
A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

(a) The search of vehicles, buildings, bags and other articles.

(b) Assisting in the search for narcotics during a search warrant service.

(c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

A narcotics-detection trained canine will not be used to search a person for narcotics unless the canine is trained to passively indicate the presence of narcotics.

318.8 HANDLER SELECTION
The minimum qualifications for the assignment of canine handler include:

(a) An officer who is currently off probation.

(b) Residing in an adequately fenced single-family residence (minimum 5-foot-high fence with locking gates).

(c) A garage that can be secured and can accommodate a canine vehicle.

(d) Living within 30 minutes travel time from the Modesto City limits.

(e) Agreeing to be assigned to the position for a minimum of three years.

318.9 HANDLER RESPONSIBILITIES
The canine handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection, and living conditions.

The canine handler will be responsible for the following:

(a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
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(b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.

(c) When not in service, the handler shall maintain the canine vehicle in a locked garage, away from public view.

(d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Modesto Police Department facility.

(e) Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.

(f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.

(g) When off-duty, the canine shall be in a kennel provided by the City at the home of the handler. When a canine is kenneled at the handler’s home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.

(h) The canine should be permitted to socialize in the home with the handler’s family for short periods of time and under the direct supervision of the handler.

(i) Under no circumstances will the canine be lodged at another location unless approved by the canine coordinator or Watch Commander.

(j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine coordinator or Watch Commander.

(k) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made.

318.9.1 CANINE IN PUBLIC AREAS
The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

(a) A canine shall not be left unattended in any area to which the public may have access.

(b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the canine. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

318.10 CANINE INJURY AND MEDICAL CARE
In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine supervisor or canine commander as soon as practicable and appropriately documented.
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All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained by the designated canine veterinarian.

318.11 TRAINING

Before assignment in the field, each canine team shall be trained and certified to meet current POST guidelines or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics, firearms/ammunition, and/or explosives also shall be trained and certified by the Western States Police Canine Association, California Narcotic Canine Association (CNCA) or other recognized and approved certification standards established for their particular skills.

The canine coordinator shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines. Because canines may be exposed to dangerous substances such as opioids, as resources are available, the canine coordinator should also schedule periodic training for the canine handlers about the risks of exposure and treatment for it.

All canine training shall be conducted while on-duty unless otherwise approved by the canine coordinator or Watch Commander.

318.11.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to a current POST, CNCA, or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

(a) Canine teams should receive training as defined in the current contract with the Modesto Police Department canine training provider.

(b) Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.

(c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is not reviewed and approved by the Department.

318.11.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved.

318.11.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler’s and the canine’s training file.

318.11.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using or transporting controlled substances or explosives for canine training
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purposes must comply with federal and state requirements. Alternatively, the Modesto Police Department may work with outside trainers with the applicable licenses or permits.

318.11.5 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (Health & Safety Code § 11367.5; 21 USC § 823(f)).

The Chief of Police or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Modesto Police Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief of Police or the authorized designee may request narcotics training aids from the Drug Enforcement Administration (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

318.11.6 CONTROLLED SUBSTANCE PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of the canine’s accidental ingestion of these controlled substances, the following procedures shall be strictly followed:

(a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.

(b) The weight and test results shall be recorded and maintained by this department.

(c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.

(d) All controlled substance training samples will be inspected, weighed, and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency.

(e) All controlled substance training samples will be stored in locked, airtight, and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler’s assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.

(f) The canine coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.

(g) Any unusable controlled substance training samples shall be returned to the Evidence and Property or to the dispensing agency.

(h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.
318.12 REVISIONS
Adopted October 1, 2014

- Revised October 1, 2016
- Revised May 1, 2020
Domestic Violence

320.1 POLICY
The Modesto 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.

320.2 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.

320.3 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) Officers shall use the Modesto Police Department's Domestic Violence Report forms for all felony domestic violence related incidents. All applicable sections of the forms shall be thoroughly completed. Computer closures are not an acceptable report for domestic violence related cases.

(c) The Victim Confidentiality Request form is required for all felony domestic violence investigations, whether or not the victim requests to remain confidential. If the victim elected confidentiality, the officer should not write the victim's name or any other identifying information within the report or on the face sheet of the Probable Cause Declaration form, as this document is discoverable by the defendant.

(d) 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.

(e) 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. If it is determined that children do live within the home, a copy of the report should be forwarded to Child Protective Services.

(f) When practicable and legally permitted, video or audio record all significant statements and observations.
Domestic Violence

(g) 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 Investigative Services Division in the event that the injuries later become visible.

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

(i) 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.

(j) 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).

(k) 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.

(l) 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. The racial, cultural, social, professional position or sexual orientation of the victim or suspect.
11. 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.
12. The social status, community status, or professional position of the victim or suspect.
320.3.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

(a) Advise the victim that there is no guarantee the suspect will remain in custody.
(b) Provide the victim’s contact information to the jail staff to enable notification of the victim upon the suspect’s release from jail.
(c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

320.3.2 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.

320.4 VICTIM ASSISTANCE

Victims may be traumatized or confused. Officers should:

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

An officer shall advise an individual protected by a Canadian domestic violence protection order of available local victim services (Family Code § 6452).
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320.5 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.

320.6 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).

320.7 VERIFICATION OF COURT ORDERS
The Modesto Police Department maintains a complete and systematic record of domestic violence protective orders, including proofs of service. Those records are available to officers and provide the existence, terms and effective dates of the orders.

When the officer becomes aware of the existence of a protective order, the officer should ascertain the following:

(a) If a protective order is on file with the Modesto Police Department.
(b) If the complainant has a copy of the order in his/her possession.
(c) If the order is still valid as to duration of dates.
(d) If a proof of service or notice exists showing that the suspect is aware of the order.
(e) The terms of the order.

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
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subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).

(b) Check available records or databases that may show the status or conditions of the order.

   1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).

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

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

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

320.7.1 PROOF OF SERVICE
When an offender is at the scene and a protective order has been verified but there is no evidence that the restrained person/suspect was served with the order or had prior knowledge of the order, the officer should:

   (a) Inform the suspect of the exact terms of the order.

   (b) Admonish the suspect that a violation of the order will result in arrest.

   (c) Arrest the suspect if he/she continues to violate the order after notification is made.

   (d) Complete a report indicating that the suspect was admonished concerning the specific terms of the order, the name of the admonishing officer, the date and time of the admonishment and any other pertinent information.

   (e) Contact Records Unit to ensure that the copy of the protective order is updated in CLETS to reflect the admonishment information.

When the suspect is not at the scene, the officer will investigate to determine if a crime has been committed, prepare a report and refer the case to the District Attorney’s Office for complaint. The officer will advise the complainant that the case will be referred to the District Attorney's Office and give the complainant the report number.

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

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

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

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

(c) Officers shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):

1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender’s child)
3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
4. Penal Code § 646.9 (stalking)
5. Other serious or violent felonies specified in Penal Code § 1270.1

(d) In responding to domestic violence incidents, including mutual protective order violations, officers should generally be reluctant to make dual arrests. Officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an officer shall consider:

1. The intent of the law to protect victims of domestic violence from continuing abuse.
2. The threats creating fear of physical injury.
3. The history of domestic violence between the persons involved.
4. Whether either person acted in self-defense.

(e) An arrest should 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.

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After arrest, the officer shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

320.8.2 COURT ORDERS
   (a) An officer who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person’s parent/guardian with a copy of the order. The officer shall submit a copy to Records and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. Records will also forward the order to the court as soon as practicable (Family Code § 6271; Penal Code § 646.91).
   (b) At the request of the petitioner, an officer at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).
   (c) Any officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)).
   (d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).
   (e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the officer shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The officer shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide the person with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

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

320.8.4 REPORTS AND RECORDS
   (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
   (b) Reporting officers should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.
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(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)).

320.8.5 RECORD-KEEPING AND DATA COLLECTION
This department shall maintain records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Department, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Police Civilian Supervisor to maintain and report this information as required.

320.8.6 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).

320.8.7 BAIL ENHANCEMENT PROCEDURE
Whenever an officer determines it appropriate, especially when there is extra concern for the safety of the victim or when there is reasonable cause to believe that the amount of the scheduled bail is insufficient to assure the defendant's appearance, increased bail may be sought pursuant to 1269(c) PC.

The officer must contact the on-call judge via the Communications Center. The officer will declare, under penalty of perjury, the reasons for the requested increase. The officer will notify jail personnel of the bail set by the judge; and, if necessary, allow the booking officer to speak with a judge.

The officer will complete an affidavit and order which lists the reasons for the requested bail increase and submit that affidavit and order to the judge who authorized the increased bail. The signed order shall be delivered to the District Attorney’s office and a copy given to the jail.

If there are no officers available that are familiar with this procedure the Special Victim Unit's Sergeant should be contacted for assistance.

320.9 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2018
- Revised July 1, 2018
Domestic Violence

- Revised October 1, 2018
- Revised October 1, 2019
- Revised August 1, 2020
- Revised February 1, 2022
Search and Seizure

322.1 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 Modesto Police Department personnel to consider when dealing with search and seizure issues.

322.2 POLICY
It is the policy of the Modesto 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.

322.3 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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322.4 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, another officer or a supervisor should witness the search.

322.5 DOCUMENTATION
Officers are responsible to document any search when any of the following circumstances exist:

- When the person whose items or person were searched, complain about the search being unreasonable or unlawful
- When the search is likely to generate a citizen’s complaint
- When steps need to be taken to secure property after a search is conducted
- When any property or contraband is seized

322.6 REVISIONS
Adopted October 1, 2014

- Revised July 1, 2016
Temporary Custody of Juveniles

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

324.2 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 Modesto Police Department (34 USC § 11133).

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

324.2.1 DEFINITIONS
Definitions related to this policy include:

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

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

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

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

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

Examples of secure custody include:
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(a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
(b) A juvenile handcuffed to a rail.
(c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
(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).

324.3 JUVENILES WHO SHOULD NOT BE HELD
Juveniles who exhibit any of the following conditions should not be held at the Modesto Police Department:

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

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

These juveniles should not be held at the Modesto Police Department unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).
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If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release, or a transfer is completed (15 CCR 1142).

324.3.1 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).

324.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY
Department members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill him/herself, or any unusual behavior which may indicate the juvenile may harm him/herself while in either secure or non-secure custody (15 CCR 1142).

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

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

324.4.1 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 Modesto 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).

324.4.2 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
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the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

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

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

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

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

In all other cases the juvenile offender may be:

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

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

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

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

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

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

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

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

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

324.7 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.
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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 Modesto 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).

324.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Modesto 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 Modesto Police Department more than four hours. This will enable the Watch Commander to ensure no juvenile is held at the Modesto Police Department more than six hours.

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

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

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

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

(f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143). A snack shall be provided for a juvenile, whether the juvenile is on a secure or non-secure status (Stanislaus County Judiciary).

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

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

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

(j) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).

(k) Blankets shall be provided as reasonably necessary (15 CCR 1143).
   1. The Crime Prevention Unit supervisor should ensure that there is an adequate supply of clean blankets.
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(l) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.

(m) Juveniles shall have adequate furnishings, including suitable chairs or benches.

(n) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.

(o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse (15 CCR 1142).

324.9 USE OF RESTRAINT DEVICES
Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Modesto Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

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

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

324.10 PERSONAL PROPERTY
The officer taking custody of a juvenile offender or status offender at the Modesto 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 Modesto Police Department.

324.11 SECURE CUSTODY
Only juvenile offenders 14 years of age or older may be placed in secure custody (Welfare and Institutions Code § 207; 15 CCR 1145). Watch Commander approval is required before placing a juvenile offender in secure custody.

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to him/herself or others include the following (15 CCR 1145):

(a) Age, maturity, and delinquent history

(b) Severity of offense for which the juvenile was taken into custody
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(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).

324.11.1 LOCKED ENCLOSURES
A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

(a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.
(b) Juveniles shall have constant auditory access to department members (15 CCR 1147).
(c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1).
(d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (15 CCR 1147; 15 CCR 1151).
   1. All safety checks shall be logged.
   2. The safety check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
   3. Requests or concerns of the juvenile should be logged.
(e) Males and females shall not be placed in the same locked room (15 CCR 1147).
(f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
(g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.
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324.12 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE
The Watch Commander will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Modesto Police Department (15 CCR 1142; 15 CCR 1047). The procedures will address:

(a) Immediate notification of the on-duty supervisor, Chief of Police, and Investigative Services Division Supervisor.

(b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.

(c) Notification of the appropriate prosecutor.

(d) Notification of the City attorney.

(e) Notification to the coroner.

(f) Notification of the juvenile court.

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

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

(i) Evidence preservation.

324.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS
No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.

Prior to conducting a custodial interrogation, including the waiver of Miranda rights, an officer shall permit a juvenile 17 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile. The requirement to consult with legal counsel does not apply when (Welfare and Institutions Code § 625.6):

(a) Information is necessary to protect life or property from an imminent threat.

(b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

324.13.1 MANDATORY RECORDINGS OF JUVENILES
Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a department facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a Miranda advisement preceding the interrogation (Penal Code § 859.5).

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

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

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(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).

324.14  JUVENILE HALL
When it has been determined that the most appropriate disposition is lodging the offender in Juvenile Hall, the juvenile shall be transported to Juvenile Hall as soon as possible.

All related police reports, including the Juvenile Contact Report, should be completed and should accompany the juvenile to Juvenile Hall.

In the event that the police reports are not completed at the time of the transport to Juvenile Hall, the Juvenile Contact Report shall be completed and turned in at Juvenile Hall and the arresting officer shall complete the reports prior to the end of his/her shift and the reports shall be forwarded to Juvenile Hall without delay, no later than the next day. The reports can be faxed to Juvenile Hall Intake.

324.15  RELEASE OF INFORMATION CONCERNING JUVENILES
Court decisions and legislation have combined to carefully specify situations in which information may be given out or exchanged when a case involves a juvenile. Members of this department shall not divulge any information regarding juveniles unless they are certain of the legal authority to do so.
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A copy of the current policy of the juvenile court concerning authorized release of information and appropriate acknowledgment forms shall be kept with copies of this procedure in the Modesto Police Department Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Custodian of Records and the appropriate supervisors to ensure that personnel of those bureaus act within legal guidelines.

324.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION
The Operations Division Commander shall coordinate the procedures related to the custody of juveniles held at the Modesto Police Department and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

324.17 REVISIONS
Adopted October 1, 2016

- Revised April 1, 2016
- February 1, 2017
- April 1, 2018
- October 1, 2018
- November 1, 2018
- June 1, 2019
- December 1, 2020
- May 1, 2021
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326.1 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 Modesto Police Department members as required by law (Penal Code § 368.6).

The Modesto 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).

326.1.1 DEFINITIONS
Definitions related to this policy include:

Abuse of an elder (age 65 or older) or dependent adult - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.05 et seq.; Penal Code § 368.5).

Department protocols (or protocols) - A procedure adopted by a local law enforcement agency consistent with the agency's organizational structure and stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility.

Dependent adult - An individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights, including but not limited to persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Penal Code § 368; Welfare and Institutions Code § 15610.23).

Elder and dependent adult abuse - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult’s care, or any other act that would mandate reporting or notification to a social service agency or law enforcement (Penal Code § 368).

Senior and disability victimization - Means any of the following (Penal Code § 368.6):

(a) Elder and dependent adult abuse

(b) Unlawful interference with a mandated report

(c) Homicide of an elder, dependent adult, or other adult or child with a disability
(d) Sex crimes against elders, dependent adults, or other adults and children with disabilities
(e) Child abuse of children with disabilities
(f) Violation of relevant protective orders
(g) Hate crimes against persons with actual or perceived disabilities, including but not limited to disabilities caused by advanced age, or those associated with them
(h) Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age

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

326.2.1 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).

326.2.2 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)).

326.3 INVESTIGATIONS AND REPORTING
All reported or suspected cases of elder and dependent adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated (Penal Code § 368.6).

Investigations and reports related to suspected cases of elder and dependent adult abuse should address, as applicable:

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected elder and dependent adult abuse victim is contacted.

(b) Any relevant statements the victim may have made and to whom he/she made the statements.
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(c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

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

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

(f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.

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

(h) Previous addresses of the victim and suspect.

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

(j) Witness and suspect statements if available.

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

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

(m) Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).

(n) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the elder or dependent adult abuse (Welfare and Institutions Code § 15640(f)).

(o) Whether a death involved the End of Life Option Act:

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

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

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

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

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

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

326.3.1 ADDITIONAL INVESTIGATIVE CONSIDERATIONS
The following factors as provided in Penal Code § 368.6 should be considered when investigating incidents of elder and dependent adult abuse:

(a) Elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim's actual or perceived disability, including disability caused by advanced age, is also a hate crime (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).

(b) Senior and disability victimization crimes are also domestic violence subject to the mandatory arrest requirements of Penal Code § 836 if they meet the elements described in Penal Code § 273.5, including but not limited to a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with, the victim (Penal Code § 368.6(c)(10)).

(c) Many victims of sexual assault and other sex crimes delay disclosing the crimes for reasons including but not limited to shame, embarrassment, self-doubt, fear of being disbelieved, and fear of retaliation by the perpetrator or others (Penal Code § 368.6(c) (11)).

(d) Victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons (Penal Code § 368.6(c)(14)).

326.4 QUALIFIED INVESTIGATORS
Qualified investigators should be available to investigate cases of elder and dependent adult abuse. These investigators should:

(a) Conduct interviews in appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to elder and dependent adult abuse investigations.

(c) Present all cases of alleged elder and dependent adult abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies, and facility administrators as needed (Welfare and Institutions Code § 15650).

(e) Provide referrals to therapy services, victim advocates, guardians, and support for the victim and family as appropriate (see the Victim and Witness Assistance Policy for additional guidance).

1. Ensure victims of sex crimes know their right to have a support person of their choice present at all times during an interview or contact (Penal Code § 368.6) (see the Sexual Assault Investigations Policy for additional guidance).
2. Referrals to the crime victim liaison as appropriate for victims requiring further assistance or information regarding benefits from crime victim resources.

   (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).

   (g) Make reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

326.5 MANDATORY NOTIFICATION

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

Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in Welfare and Institutions Code § 15630(b)(c).

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

   (a) If the abuse is physical abuse and occurred in a long-term care facility (not a state mental health hospital or a state developmental center), notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):

      1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.

      2. If there is physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.

      3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.

      4. When a report of abuse is received by the Department, the local ombudsman shall be called to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).

   (b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman as soon as practicable (Welfare and Institutions Code § 15630(b)).

   (c) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.

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

(f) The Division of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.

(g) The District Attorney’s office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.

(h) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).

1. When a report of abuse is received by the Department, investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).

(i) If during an investigation it is determined that the elder or dependent adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).

(j) When the Department receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

The N/A 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)).

326.5.1 NOTIFICATION PROCEDURE

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

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

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

(c) The present location of the elder or dependent adult.
(d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.
(e) The nature and extent of the condition of the elder or dependent adult.
(f) The date of incident.
(g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

### 326.6 PROTECTIVE CUSTODY

Before taking an elder or dependent adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact APS. Generally, removal of an adult abuse victim from his/her family, guardian, or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove an elder or dependent adult abuse victim from his/her family or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the victim. Prior to taking an elder or dependent adult abuse victim into protective custody, the officer should take reasonable steps to deliver the adult to another qualified legal guardian, unless it reasonably appears that the release would endanger the victim or result in abduction. If this is not a reasonable option, the officer shall ensure that the adult is delivered to APS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking an elder or dependent adult abuse victim into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking the adult into protective custody.

When elder or dependent adult abuse victims are under state control, have a state-appointed guardian, or there are other legal holdings for guardianship, it may be necessary or reasonable to seek a court order on behalf of the adult victim to either remove the adult from a dangerous environment (protective custody) or restrain a person from contact with the adult.

#### 326.6.1 EMERGENCY PROTECTIVE ORDERS

In any situation which an officer reasonably believes that an elder or dependent adult is in immediate and present danger of abuse based on an allegation of a recent incident of abuse or threat of abuse (other than financial abuse alone), the officer may seek an emergency protective order against the person alleged to have committed or threatened such abuse (Family Code § 6250(d)).

#### 326.6.2 VERIFICATION OF PROTECTIVE ORDER

Whenever an officer verifies that a relevant protective order has been issued, the officer shall make reasonable efforts to determine if the order prohibits the person from possession of firearms or requires the relinquishment of firearms, and if the order does so, the officer shall make reasonable efforts to (Penal Code § 368.6(c)(19)):
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(a) Inquire whether the restrained person possesses firearms. The officer should make this effort by asking the restrained person and the protected person.
(b) Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.
(c) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search in compliance with Penal Code § 18250 et seq. and in accordance with department procedures.

326.7 INTERVIEWS

326.7.1 PRELIMINARY INTERVIEWS
Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected elder or dependent adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

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

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

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

326.7.3 INTERVIEWS WITH A PERSON WITH DEAFNESS OR HEARING LOSS
An officer who is interviewing a victim or witness who reports or demonstrates deafness or hearing loss should secure the services of a qualified interpreter (as defined by Evidence Code § 754) prior to the start of the interview (Penal Code § 368.6) (see the Communications with Persons with Disabilities Policy for additional guidance).

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

### 326.9 DRUG-ENDANGERED VICTIMS
A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an elder or dependent adult abuse victim who has been exposed to the manufacturing, trafficking, or use of narcotics.

#### 326.9.1 OFFICER RESPONSIBILITIES
Officers responding to a drug lab or other narcotics crime scene where an elder or dependent adult abuse victim is present or where there is evidence that an elder or dependent adult abuse victim lives should:

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

(b) Notify the Investigative Services Division Supervisor so an interagency response can begin.

#### 326.9.2 SUPERVISOR RESPONSIBILITIES
The Investigative Services Division Supervisor should:

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

(b) Activate any available interagency response when an officer notifies the Investigative Services Division 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.

### 326.10 RECORDS BUREAU RESPONSIBILITIES
The Records Unit is responsible for:

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

(b) Retaining the original elder or dependent adult abuse report with the initial case file.
326.11 JURISDICTION
The Modesto 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.

326.12 TRAINING
The Department should provide training on best practices in elder and dependent adult abuse investigations to members tasked with investigating these cases. The training should include:

(a) Participating in multidisciplinary investigations, as appropriate.
(b) Conducting interviews.
(c) Availability of therapy services for adults and families.
(d) Availability of specialized forensic medical exams.
(e) Cultural competence (including interpretive services) related to elder and dependent adult abuse investigations.
(f) Availability of victim advocates or other support.

326.12.1 MANDATORY TRAINING
The Training Sergeant shall ensure that appropriate personnel receive the required training, including:

(a) Materials from POST as described in Penal Code § 368.6(c)(5)(A).
(b) Advanced training on senior and disability victimization available from POST, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources as provided by Penal Code § 368.6(c)(16)(A).

1. Training should include the following:

(a) Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers (Penal Code § 368.6(c)(1)).
(b) Information on the history of elder and dependent adult abuse and crimes against individuals with disabilities (see the POST Senior and Disability Victimization Policy Guidelines).
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The Training Sergeant 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)).

326.13 RELEVANT STATUTES
Penal Code § 288 (a) and Penal Code § 288 (b)(2)

(a) Except as provided in subdivision (i), a person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1 (Of Crimes and Punishments of the Penal Code) upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

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

Penal Code § 368 (c)

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

Penal Code § 368 (f)

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

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

Welfare and Institutions Code § 15610.05

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

Welfare and Institutions Code § 15610.06

“Abduction” means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the
capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

Welfare and Institutions Code § 15610.30

(a) “Financial abuse” of an elder or dependent adult occurs when a person or entity does any of the following:

1. Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

2. Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.

3. Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity 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.

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.
   3. Rape in concert, as described in Section 264.1 of the Penal Code.
   4. Incest, as defined in Section 285 of the Penal Code.
   5. Sodomy, as defined in Section 286 of the Penal Code.
   6. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
   7. Sexual penetration, as defined in Section 289 of the Penal Code.
   8. Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.
(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
   1. For punishment.
   2. For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
   3. For any purpose not authorized by the physician and surgeon.

326.14 CHIEF OF POLICE RESPONSIBILITIES
The Chief of Police or the authorized designee responsibilities include but are not limited to (Penal Code § 368.6):

(a) Taking leadership within the Department and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of department support for the victims and their families and for others in the community who are terrorized and traumatized by the crimes, and to encourage victims and witnesses to the crimes or similar past or future crimes to report those crimes to help bring the perpetrators to justice and prevent further crimes.
(b) Developing and including department protocols in this policy, including but not limited to the following:
   1. Protocols for seeking emergency protective orders by phone from a court at any time of day or night pursuant to Family Code § 6250(d).
2. Protocols for arrest warrants and arrests for senior and disability victimization for matters other than domestic violence and consistent with the requirements of Penal Code § 368.6(c)(9)(B) that include the following:
   
   (a) In the case of a senior and disability victimization committed in an officer’s presence, including but not limited to a violation of a relevant protective order, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
   
   (b) In the case of a felony not committed in an officer’s presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
   
   (c) In the case of a misdemeanor not committed in the officer’s presence, including but not limited to misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.
   
   (d) Protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.

3. Procedures for first responding officers to follow when interviewing persons with cognitive and communication disabilities until officers, or staff of other responsible agencies with more advanced training, are available. The procedure shall include an instruction to avoid repeated interviews whenever possible.

   (c) For each department protocol, include either a specific title-by-title list of officer responsibilities or a specific office or unit in the Department responsible for implementing the protocol.
   
   (d) Ensure an appendix is created and attached to this policy that describes requirements for elder and dependent adult abuse investigations consistent with Penal Code § 368.6(c)(8)(B).
   
   (e) Ensure a detailed checklist is created and attached to this policy regarding first responding responsibilities that includes but is not limited to the requirements of Penal Code § 368.6(c)(23).
   
   (f) Ensuring that all members carry out their responsibilities under this policy.
   
   (g) Verifying a process is in place for transmitting and periodically retransmitting this policy and related orders to officers, including a simple and immediate way for officers to access the policy in the field when needed.
   
   (h) Ensure this policy is available to the Protection and Advocacy Agency upon request.

326.15 ELDER AND DEPENDENT ADULT ABUSE LIAISON

A department member appointed by the Chief of Police or the authorized designee will serve as the Elder and Dependent Adult Abuse Liaison. Responsibilities of the liaison include but are not limited to (Penal Code § 368.6):
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(a) Acting as a liaison to other responsible agencies (defined by Penal Code § 368.6(b)(15)) to increase cooperation and collaboration among them while retaining the law enforcement agency’s exclusive responsibility for criminal investigations (Welfare and Institutions Code § 15650).

(b) Reaching out to the senior and disability communities and to the public to encourage prevention and reporting of senior and disability victimization.

326.16 REVISIONS
Adopted October 1, 2014

- Revised August 1, 2016
- Revised August 1, 2017
- Revised July 1, 2018
- Revised October 1, 2018
- Revised June 1, 2019
- Revised May 1, 2021
- Revised February 1, 2022
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330.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Modesto Police Department members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

330.1.1 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).

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

330.3 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.

330.3.1 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.

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

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

(a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.

(b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.

(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).

330.4.1 COMMERCIAL SEXUALLY EXPLOITED CHILDREN
Pursuant to California Penal Code § 647(b)(2), minors shall not be arrested for any violation of 647(b) PC or 653.22 PC. Minors engaged in acts of prostitution should be considered victims of crime. This does not apply for minors who violate 263.1 PC, 266(h) PC, and 266(i) PC. Officers who encounter a commercially sexually exploited child shall notify Child Protective Services (Penal Code § 11166). When appropriate, officers should request Child Protective Services to respond to take protective custody of the child.

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

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

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

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

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

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

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

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

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

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

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

330.5.1 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.

330.5.2 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.

330.6 INTERVIEWS
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330.6.1 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.

330.6.2 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) Existent 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.

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

330.7 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).

330.8 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.

330.9 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.

330.9.1 SUPERVISOR RESPONSIBILITIES
The N/A 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 N/A 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.

330.9.2 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 N/A supervisor so an interagency response can begin.
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330.10 STATE MANDATES AND OTHER RELEVANT LAWS
California requires or permits the following:

330.10.1 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).

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

330.10.3 CACI HEARING OFFICER
The N/A 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.

330.10.4 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).
Child Abuse

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.

330.11 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.

330.12 REVISIONS
Adopted October 1, 2014

- Revised July 1, 2016
- Revised January 1, 2017
- Revised April 1, 2017
- Revised July 1, 2018
- Revised February 1, 2022
Missing Persons

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

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

- A victim of a crime or foul play.
- A person missing and in need of medical attention.
- A missing person with no pattern of running away or disappearing.
- A missing person who may be the victim of parental abduction.
- A mentally impaired missing person, including cognitively impaired or developmentally disabled.
- A person who is 16 years of age or younger (per MPD policy).

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

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

332.2 POLICY
The Modesto 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 Modesto 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).

332.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS
The Investigative Services Division supervisor should ensure the forms and kits are developed and available in accordance with this policy, state law, federal law and the California Peace Officer Standards and Training (POST) Missing Persons Investigations guidelines, including:

- Department report form for use in missing person cases
- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation (Penal Code § 13519.07)
Missing Persons

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

332.4 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).

The Telephone Reporting Unit (TRU) shall have primary responsibility for all incoming missing person reports unless the missing person is believed to be the victim of a crime, suspicious circumstances are involved or the missing person is a juvenile under 16 years of age and there is no clear indication the child is a runaway.

If a field unit needs to handle the missing person report, TRU shall assign a case number and forward to Dispatch. TRU will complete a face sheet of the DOJ Missing Persons report form and First Responder Checklist, send a BOL, and take the face sheet to Records for entry into the Missing Persons System via CLETS.

332.5 INITIAL INVESTIGATION
Officers or other employees conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

(a) Respond to a dispatched call for service as soon as practicable.
(b) Interview the reporting person 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" (BOL) bulletin if the person is under 21 years of age or there is evidence that the missing person is at risk. The BOL should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 or may be at risk (Penal Code § 14211).
(e) Ensure that entries are made into the appropriate missing person networks as follows:
   1. Immediately, within two hours, when the missing person is at risk.
Missing Persons

2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.

(f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.

(g) Collect and/or review the following:

1. A photograph and a fingerprint card of the missing person, if available.
2. A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
3. Any documents that may assist in the investigation, such as court orders regarding custody.
4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).

(h) When circumstances permit and if appropriate, attempt to determine the missing person's location through their telecommunications carrier.

(i) Contact the appropriate agency if the report relates to a previously made missing person report and another agency is actively investigating that report. When this is not practical, the information should be documented in an appropriate report for transmission to the appropriate agency.

(j) Complete supplemental report with all other information received regarding the missing person and action taken to locate the missing person. This action shall include a complete search by the officer of the missing person's residence (if applicable) and the location where the person was last seen. Information shall also be logged and documented on all witnesses present.

If all reasonable steps were taken to locate a missing person without success, and the person is believed to be endangered, the officer shall notify the patrol sergeant and/or the Watch Commander and request the Investigative Services Division be notified prior to clearing from the call.

332.6 REPORT PROCEDURES AND ROUTING
Employees should complete all missing person reports and forms promptly and submit to Records for appropriate CLETS/NCIC entries.

A Missing Persons Report must be completed, even if the missing person is located during the investigation (Penal Code § 14213(c)).

332.6.1 SUPERVISOR RESPONSIBILITIES
The responsibilities of the supervisor shall include, but are not limited to:

(a) Reviewing and approving missing person reports upon receipt.
Missing Persons

1. The reports should be promptly sent to the Records Unit.

   (b) Ensuring resources are deployed as appropriate.

   (c) Initiating a command post as needed.

   (d) Ensuring applicable notifications and public alerts are made and documented.

   (e) Ensuring that records have been entered into the appropriate missing persons networks.

   (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

332.6.2 RECORDS UNIT RESPONSIBILITIES
The receiving member shall:

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

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

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

   (d) Forward a copy of the report to the Investigative Services Division.

   (e) Coordinate with the NCIC Terminal Contractor for California to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

332.7 INVESTIGATIVE SERVICES DIVISION FOLLOW-UP
In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation:

   (a) Shall ensure that the missing person’s school is notified within 10 days if the missing person is a juvenile.

      1. The notice shall be in writing and should also include a photograph (Education Code § 49068.6).

      2. The investigator should meet with school officials regarding the notice as appropriate to stress the importance of including the notice in the child’s student file, along with contact information if the school receives a call requesting the transfer of the missing child’s files to another school.
332.8 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 Police Civilian Supervisor shall ensure that, upon receipt of information that a missing person has been located, the following occurs (Penal Code § 14213):

(a) Notification is made to California DOJ.

(b) The missing person’s school is notified.

(c) Entries are made in the applicable missing person networks.

(d) Immediately notify the Attorney General’s Office.
Missing Persons

(e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation within 24 hours.

332.8.1 UNIDENTIFIED PERSONS
Department members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

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

332.9 CASE CLOSURE
The Missing Person Investigator may close 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 was a resident of Modesto or this department is the lead agency, the case should be kept under active investigation for as long as the person may still be alive. Exhaustion of leads in the investigation should not be a reason for closing a case.
(c) If this department is not the lead agency, the case can be made inactivate if all investigative leads have been exhausted, the lead agency has been notified and entries are made in the applicable missing person networks as appropriate.
(d) A missing person case should not be closed or reclassified because the person would have reached a certain age or adulthood or because the person is now the subject of a criminal or civil warrant.

A Case Disposition will be completed and forwarded to Records. The Investigator Worksheet shall also be forwarded to Records when the case is closed.

332.10 REVISIONS
Adopted October 1, 2014

- Revised September 1, 2016
- Revised January 1, 2017
- Revised July 1, 2018
- Revised October 1, 2018
- Revised December 1, 2018
- Revised April 1, 2020
Public Alerts

334.1 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.

334.2 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.

334.3 RESPONSIBILITIES

334.3.1 EMPLOYEE RESPONSIBILITIES
Employees of the Modesto Police Department should notify their supervisor, Watch Commander or Investigative Services Division 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.

334.3.2 SUPERVISOR RESPONSIBILITIES
A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief of Police, the appropriate Division Commander and the Public Information Officer when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

(a) Updating alerts
(b) Canceling alerts
(c) Ensuring all appropriate reports are completed
(d) Preparing an after-action evaluation of the investigation to be forwarded to the Division Commander

334.4 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.
334.4.1 CRITERIA FOR AMBER ALERT
The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

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

334.4.2 PROCEDURE FOR AMBER ALERT
The supervisor in charge will ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the child:

1. The child's identity, age and description
2. Photograph if available
3. The suspect's identity, age and description, if known
4. Pertinent vehicle description
5. Detail regarding location of incident, direction of travel, potential destinations, if known
6. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison
7. A telephone number for the public to call with leads or information

(b) The local California Highway Patrol communications center should be contacted to initiate a multi-regional or statewide EAS broadcast, following any policies and procedures developed by CHP (Government Code § 8594).

(c) The press release information is forwarded to Stanislaus Regional 9-1-1 so that general broadcasts can be made to local law enforcement agencies.

(d) Information regarding the missing person should be entered into the California Law Enforcement Telecommunication System (CLETS).

(e) Information regarding the missing person should be entered into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC).

(f) The following resources should be considered as circumstances dictate:

1. The local FBI office
Public Alerts

2. National Center for Missing and Exploited Children (NCMEC)

Email or Fax the press release to the local media.

The Public Information Officer, coordinating with the Investigations Supervisor shall prepare and send follow-up press releases with updates regarding the search and investigation, or immediately upon locating the abducted child, to the locations listed above.

334.5 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.

334.5.1 CRITERIA FOR BLUE ALERTS

All of the following conditions must be met before activating a Blue Alert (Government Code § 8594.5):

(a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.

(b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.

(c) A detailed description of the suspect’s vehicle or license plate is available for broadcast.

(d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

334.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

(a) An initial press release is prepared that includes all available information that might aid in locating the suspect:

1. The license number and/or any other available description or photograph of the vehicle

2. Photograph, description and/or identification of the suspect

3. The suspect's identity, age and description, if known

4. Detail regarding location of incident, direction of travel, potential destinations, if known

5. Name and telephone number of the Public Information Officer or other authorized individual to handle media liaison

6. A telephone number for the public to call with leads or information

(b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.
Public Alerts

(c) The information in the press release is forwarded to the Sheriff’s Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.

(d) The following resources should be considered as circumstances dictate:
   1. Entry into the California Law Enforcement Telecommunication System (CLETs)
   2. The FBI local office

334.6 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).

334.6.1 CRITERIA FOR SILVER ALERTS
All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

(a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired.

(b) The department has utilized all available local resources.

(c) The investigating officer or supervisor has determined that the person is missing under unexplained or suspicious circumstances.

(d) The investigating officer or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

(e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

334.6.2 PROCEDURE FOR SILVER ALERT
Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

334.7 ENDANGERED MISSING ADVISORY (EMA)
An EMA can be issued in cases where the statutory criteria for an AMBER Alert™ are not met; however, an agency has reasons to believe the person is at risk or endangered and assistance in distributing information to help locate the individual(s) is desired. Although not inclusive, the following are examples where an EMA, versus an AMBER Alert™, may be appropriate:

(a) A custodial parent takes their child and due to specific circumstances, the investigating agency deems the child to be at-risk/ endangered.

(b) A juvenile is reported missing and there is no indication or confirmation that an abduction occurred.
Public Alerts

(c) A person with a known medical condition, such as dementia, is reported missing.

An EMA involves many of the same alerting/ notification measures utilized during an AMBER Alert, except for there is no activation of the EAS. Typically, changeable message signs (CMS) are also not utilized for an EMA. An EMA generally consists of an Emergency Digital Information Service (EDIS) message, Critical Reach Flyer, Be-On-The-Look-Out broadcasts, U.S./Mexico border notification (if appropriate), and notification to the National Center of Missing and Exploited Children. Additional notification systems can be used during an EMA; however, they are used on a case-by-case basis. Further questions regarding EMA’s can be directed to ENTAC.

334.8 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).

334.8.1 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.

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

334.9 REVISIONS
Adopted October 1, 2014
- Revised April 1, 2016
- Revised July 1, 2018
- Revised September 1, 2019
- Revised April 1, 2020
Victim and Witness Assistance

336.1 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.

336.2 POLICY
The Modesto Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Modesto 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.

336.3 CRIME VICTIM LIAISON
The Chief of Police may 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 Modesto 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.

336.4 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.

336.4.1 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).

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

(a) Shelters and other community resources for victims of domestic violence.

(b) Community resources for victims of sexual assault.

(c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and
preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).

(d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).

(e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.

(f) A clear explanation of relevant court orders and how they can be obtained.

(g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).

(h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender’s custody status and to register for automatic notification when a person is released from jail.

(i) Notice regarding U visa and T visa application processes.

(j) Resources available for victims of identity theft.

(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).

**336.6 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.

**336.7 REVISIONS**

Adopted October 1, 2014

- Revised January 1, 2017
Victim and Witness Assistance

- Revised July 1, 2017
- Revised November 1, 2018
- Revised October 1, 2019
- Revised November 1, 2019
- Revised February 1, 2020
Hate Crimes

338.1 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 Modesto 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).

338.1.1 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
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
Hate Crimes

- Displaying hate material on your own property

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

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

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

**Nationality** - Nationality means country of origin, immigration status, including citizenship, and national origin.

**Race or ethnicity** - Race or ethnicity includes ancestry, color, and ethnic background.

**Religion** - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

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

**Victim** - Victim includes but is not limited to:

  - Community center
  - Educational facility
  - Entity
  - Family
  - Group
  - Individual
  - Office
  - Meeting hall
  - Person
  - Place of worship
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- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

**338.2 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.

**338.3 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.

**338.3.1 HATE CRIMES COORDINATOR**

The Investigations Assistant Division Commander will serve as the Hate Crimes Coordinator. The responsibilities of the Hate Crimes Coordinator should include but not be limited to (Penal Code § 422.87):

(a) Meeting with residents in target communities to allay fears; emphasizing the department’s concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
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(b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.

c) Providing direct and referral assistance to the victim and the victim's family.

d) Conducting public meetings on hate crime threats and violence in general.

e) Establishing relationships with formal community-based organizations and leaders.

(f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.

(g) Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Muslim communities (Penal Code § 13519.6(b)(8)).

(h) Providing orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.

(i) Coordinating with the Training Sergeant to include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.

(j) Verifying a process is in place to provide this policy and related orders to officers in the field; and taking reasonable steps to rectify the situation if such a process is not in place.

(k) Taking reasonable steps to ensure hate crime data is provided to the Records Unit for mandated reporting to the Department of Justice.

(l) Reporting any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Unit Policy.

(m) Maintaining the department’s supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).

(n) Annually assessing this policy, including:

1. Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, and planning and prevention methods.

2. Analysis of the department’s data collection as well as the available outside data (e.g., annual California Attorney General’s report on hate crime) in preparation for and response to future hate crimes.

338.3.2 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.
**Hate Crimes**

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.

### 338.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

#### 338.4.1 INITIAL RESPONSE

First responding officers should know the role of all department personnel as they relate to the department’s investigation of hate crimes and/or incidents. Responding officers should evaluate the need for additional assistance and, working with supervision and/or investigations, access needed assistance if applicable.

At the scene of a suspected hate or bias crime, officers should take preliminary actions reasonably deemed necessary, including but not limited to the following:

(a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).

(b) Stabilize the victims and request medical attention when necessary.

(c) Properly protect the safety of victims, witnesses, and perpetrators.

1. Assist victims in seeking a Temporary Restraining Order (if applicable).
(d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Department personnel should follow up with the property owner to determine if this was accomplished in a timely manner.

(f) Collect and photograph physical evidence or indicators of hate crimes such as:
   1. Hate literature.
   2. Spray paint cans.
   3. Threatening letters.
   4. Symbols used by hate groups.

(g) Identify criminal evidence on the victim.

(h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.

(i) Conduct a preliminary investigation and record pertinent information including but not limited to:
   1. Identity of suspected perpetrators.
   2. Identity of witnesses, including those no longer at the scene.
   3. The offer of victim confidentiality per Government Code § 6254.
   4. Prior occurrences in this area or with this victim.
   5. Statements made by suspects; exact wording is critical.
   6. The victim’s protected characteristics and determine if bias was a motivation “in whole or in part” in the commission of the crime.

(j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.

(k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(l) Provide the department’s Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.

(m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

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338.4.2 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.
4. Prior occurrences, in this area or with this victim.
5. Statements made by suspects; exact wording is critical.
6. Document the victim’s protected characteristics.

(h) Provide victim assistance and follow-up.

(i) Canvass the area for additional witnesses.

(j) Examine suspect’s social media activity for potential evidence of bias motivation.

(k) Coordinate the investigation with department, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
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(l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Department.

(m) Determine if the incident should be classified as a hate crime.

(n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:
   1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
   2. Provide ongoing information to victims about the status of the criminal investigation.
   3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).


(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.

338.4.3 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 § 6254) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
   3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a department chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).

(b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.

(c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.

(d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an officer to specific locations that could become targets).
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(e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.

(f) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).

(g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.

(h) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.

(i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.

(j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief of Police for approval.

338.5 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.

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

338.7 REVISIONS
Adopted October 1, 2014

- Revised August 1, 2016
- Revised May 1, 2017
- Revised April 1, 2018
- Revised June 1, 2018
- Revised June 1, 2020
Standards of Conduct

340.1 PURPOSE AND SCOPE
This policy establishes standards of conduct that are consistent with the values and mission of the Modesto 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.

340.2 POLICY
The continued employment or appointment of every member of the Modesto 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.

340.3 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.

340.3.1 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.

340.3.2 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.

340.3.3 SUPERVISION RESPONSIBILITY
Each and every member of the Department, with the exception of the Chief of Police, who reports directly to the City Manager, shall have a supervisor, namely the next above him/her in the chain of command. Said supervisor is accountable for the proper execution of every order by personal presence, written rules, instructions given or delegation of authority. Lack of physical presence does not relieve him/her of supervisory responsibility.

(a) It shall be the duty of every supervisor to know whom s/he is supervising, and notify each employee they supervise. Each supervisor shall take all reasonable steps to determine that each member under his/her supervision performs their duty completely and promptly consistent with professional law enforcement and in compliance with all laws, Department and city rules, regulations, policies and procedures.

(b) Each supervisor shall strive to create and maintain high morale among personnel.

(c) Each supervisor shall by act, manner and attitude promote understanding of all procedures essential to effective organizational control.

(d) Each supervisor shall make suitable and clear-cut delegations of authority in order that maximum efficiency may be achieved and shall develop sound and resourceful procedures. S/he shall encourage the contribution of new ideas by his/her personnel.

(e) Each supervisor shall inspire confidence and professionalism in giving orders and in correcting issues. S/he shall test understanding of instructions with care so that personnel know in detail what they are to do and how to do it and, if desirable, the reasons therefore.

(f) Each supervisor shall have knowledge of his/her employees’ progress and assist them by counsel, advice and direction. S/he shall be expected and required to suggest and recommend solutions to issues, which arise concerning his/her personnel.
Standards of Conduct

(g) Each supervisor shall strive to maintain a high level of morale and respect, and shall strive to personally set a good example.

(h) Supervisors shall immediately report known misconduct of an employee to his or her immediate supervisor or to document such misconduct appropriately or as required by policy.

(i) Supervisors shall not exercise unequal or disparate authority toward any employee for malicious or other improper purpose.

(j) Supervisors shall not discuss any aspect of any personnel matters involving an employee with anyone other than another management employee or the City’s legal counsel without the express written consent of the Chief of Police.

340.4 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.

340.5 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:

340.5.1 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.

340.5.2 ETHICS
(a) Using or disclosing one’s status as a member of the Modesto Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
(b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.

(c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).

(d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.

(e) Offer or acceptance of a bribe or gratuity.

(f) Misappropriation or misuse of public funds, property, personnel or services.

(g) Any other failure to abide by the standards of ethical conduct.

340.5.3 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.

340.5.4 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).

340.5.5 ATTENDANCE
(a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
Standards of Conduct

(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.

340.5.6 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.

1. Members of this department shall not disclose the name, address or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
(b) Disclosing to any unauthorized person any active investigation information.
(c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
(d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Modesto Police Department badge, uniform, identification card or department property for personal use, personal gain or any other improper or unauthorized use or purpose.
(e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

340.5.7 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 Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.
340.5.8 PERFORMANCE

(a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.

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

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

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

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

(f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
   1. While on department premises.
   2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
   3. Gambling activity undertaken as part of an officer’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.

(j) Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.
Standards of Conduct

340.5.9 CONDUCT

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

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

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

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

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

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

(n) Members on official business shall, upon request, identify themselves immediately by giving their names and displaying their badges or official credentials, unless such action is likely to jeopardize the successful completion of a police assignment.

(o) Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.
Standards of Conduct

(p) Members shall not take part in or be concerned with, either directly or indirectly, making or negotiating any compromise or arrangement for any person with a view of permitting such person to escape the penalty of law; nor shall they seek to obtain any continuance of any trial in court out of friendship for the defendant, or otherwise interfere with the courts of justice.

340.5.10 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.

340.5.11 INTOXICANTS

(a) Reporting for work or being at work while intoxicated or when the member’s ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
(b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
(c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

340.6 REVISIONS

Adopted October 1, 2014

- Revised April 1, 2016
- Revised December 1, 2016
- Revised January 1, 2022
Information Technology Use

342.1 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. In addition, refer to the City of Modesto Administrative Directive 1.17 - Computer Use Policy Including Internet and Email Usage.

342.1.1 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 Modesto 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.

342.2 POLICY
It is the policy of the Modesto 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.

342.3 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
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database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices, or networks.

The Department shall not require a member to disclose a personal username or password for accessing personal social media or to open a personal social website; however, the Department may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

342.4 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.

342.4.1 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.

342.4.2 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
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department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

All computers removed from Modesto PD's network shall have the hard drives removed by the Information Technology staff or designated representative. Hard drives which are no longer usable will be destroyed by having a hole drilled through it and will be sent to the Property/Evidence facility for destruction. The destruction shall be documented, indicating date of destruction and number of hard drives.

342.4.3 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.

Limited Internet use during meal periods or outside normal business hours may be granted with Department Director's Approval, refer to City of Modesto Administrative Directive 1.17, attachment B.

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

342.5 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.

342.6 INSPECTION OR REVIEW
A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.
Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department involving one of its members or a member’s duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a supervisor or during the course of regular duties that require such information.

342.7 INFORMATION TECHNOLOGY SUPPORT
For information regarding Information Technology (IT) Support, refer to Procedure PR 312.

342.8 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
- Revised September 1, 2019
Report Preparation

344.1 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.

344.1.1 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.

344.2 REQUIRED REPORTING
Reports are required in all of the following situations on the appropriate department approved form or Police Report template, unless otherwise approved by a supervisor. All reports require a case number.

344.2.1 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 Inform on a template includes:

(a) All arrests
(b) All felony crimes
(c) Non-Felony incidents involving threats, stalking behavior, or sexual related criminal activity.
(d) All misdemeanors
(e) Situations covered by separate policy. These include:

(a) Use of Force Policy
(b) Domestic Violence Policy
(c) Child Abuse Policy
(d) Senior and Disability Victimization Policy
(e) Hate Crimes Policy
(f) Suspicious Activity Reporting Policy.

NOTE: Nothing in this policy is designed to discourage officers from using report templates to document pertinent information potentially relevant to future investigations.

NOTE (2): The above section applies to all arrests for public intoxication. The Electronic Probable Cause Declaration (EPCD) alone will not be accepted as sufficient documentation. Additionally, officers shall attempt to obtain a breath sample from the person arrested and document those results in the report. If no breath sample is obtained, an explanation for the lack of breath sample will be documented (Example: suspected too intoxicated, refusal).

344.2.2 NON-CRIMINAL ACTIVITY
The following incidents shall be documented using the appropriate approved report or report template:

(a) Any use of force against any person by a member of this department (see the Use of Force Policy)
(b) Any firearm discharge (see the Firearms Policy)
(c) Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Reporting Policy)
(d) Any found property or found evidence (may use Card Closure template)
(e) Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)
(f) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
(g) All protective custody detentions
(h) Suspicious incidents that may place the public or others at risk
(i) Any situation likely to generate a citizen's complaint or is newsworthy enough for media release
(j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

344.2.3 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 Police Report template:

(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.

344.2.4 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.

344.2.5 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.

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

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

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

344.3 GENERAL POLICY OF EXPEDITIOUS REPORTING
Each employee assigned a case that requires a report shall complete the report and submit the report by the end of the shift in which the report was assigned unless other arrangements have been approved by a supervisor. In no case shall reports be held over the officer’s regular days off.

If a supervisor approves a report to be held over, an entry on the “Report Log” shall be made. The Report Log is maintained in the Watch Commander’s office.

If a special unit supervisor initiates a confidential report, i.e. drug buys, the supervisor/officer can hold the report but must submit a record’s form referred to as a statistical “half sheet”. As soon as practical, the supervisor/officer shall submit the original report to the Records Unit.

The Records Unit shall place paper reports requiring review by the Watch Commander at the officer’s counter, next to the basket.

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

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

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

344.4 REPORT REVIEW AND CORRECTIONS
Supervisors shall reject the police report template, sending it back to the Officer, or complete a Report Review Notice for paper reports requiring correction or follow-up. Notices shall be distributed as follows:
(a) The white copy of the notice will go to the employee’s supervisor; the yellow copy to the platoon wing file for the employee and the pink copy will be attached to the report, and placed in the Pending file

1. The yellow copy shall be given to the employee by the briefing sergeant at the start of the shift

2. Employees who receive a Report Review Notice shall complete all corrections during the shift in which they receive the Report Review Notice unless authorized or directed not to do so by their supervisor

3. After completing the required corrections, employees shall turn in the corrected report to a supervisor with the yellow copy of the Report Review Notice attached

4. Once a report has been reviewed, the report shall be returned to Records for final distribution or for holding in the Pending/Corrections file.

All original reports will be maintained in Records

344.5 REPORT CHANGES OR ALTERATIONS
Reports that have been approved by a supervisor and submitted to the Records Unit for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the Records Unit may be corrected or modified by the authoring officer only with the knowledge and authorization of the reviewing supervisor.

344.6 ALL OTHER ACTIVITY (CALLS FOR SERVICE)
All other calls for service or self-initiated activity, not requiring a report, shall be documented in CAD and should not be issued a case number.

344.7 CASE NUMBERING SYSTEM
The CAD system assigns a single and unique incident/case number to each incident. This unique number simplifies the rapid and positive identification of that incident in the future.

The case number consists of ten digits. The first two being MP (the agency), the next two being the last two numbers of the calendar year followed by a sequential series of numbers (e.g. MP18000001).

344.8 REVISIONS
Adopted October 1, 2014

• Revised August 1, 2016
• Revised May 1, 2018
• Revised August 1, 2018
• Revised August 2, 2018
• Revised October 1, 2019
Report Preparation

- Revised June 1, 2020
- Revised August 7, 2020
- Revised September 1, 2020
- Revised September 1, 2021
News Media Relations

346.1 PURPOSE AND SCOPE
This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

346.1.1 POLICY
No employee shall release any information that would jeopardize an active investigation, prejudice an accused person's right to a fair trial, or violate the law. It shall be the policy of this agency to cooperate with the media and to maintain an atmosphere of open communication. A positive working relationship with the media is mutually beneficial. To this end, information shall be released to the media in an impartial, accurate and timely fashion. It shall be the responsibility of each employee to abide by this philosophy of cooperation.

346.2 RESPONSIBILITIES
The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police, however, that responsibility may be delegated to the following personnel: The designated Public Information Officer(s), Division Commanders, Watch Commanders or Supervisors may prepare and release information to the media in accordance with this policy and the applicable law. The Chief of Police, PIO, Watch Commander or supervisor may direct other employees to respond to media inquiries as well.

The PIO is the primary contact for the media and shall be available during normal business hours and be on call for emergencies and critical incidents at all other times. When the PIO anticipates his/her absence, a back-up PIO or on-duty Watch Commander will become the primary contact.

The on-duty Watch Commander shall be responsible for ensuring the PIO is informed of major incidents and all other events that may generate media interest. In the absence of a PIO, the on-duty Watch Commander shall serve as PIO. The on-duty Watch Commander may delegate these duties as appropriate.

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

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

(b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department;
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(c) Under no circumstance should any member of this department make any comment(s) to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

346.2.2 MEDIA INTERVIEWS
The PIO shall be responsible for assisting the media by conducting interviews, or coordinating interviews with other qualified agency personnel as stated in 346.2 of this policy. If practical, authorized employees contacted directly by the media shall notify the PIO of any interview requests. All conversations with the members of the media and your identity should be considered "on the record" and subject to being quoted.

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

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

(b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
   1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the department Public Information Officer or other designated spokesperson.
   2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

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

(d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express consent of the person in custody.

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

346.3.1 PROVIDING ADVANCE INFORMATION
To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.

346.4 SCOPE OF INFORMATION SUBJECT TO RELEASE
Agency members can release the following information:

(a) Basic information about a crime or incident.
(b) Basic information about victims, witness and suspects except as excluded by law.
(c) Description of suspects, weapons and vehicles used.
(d) Basic description of stolen items
(e) Basic description of injuries and condition of victim.
(f) The name, age, address and other basic information about arrestees and the charges against them, including booking photographs.
(g) Information contained in arrest affidavits and other applicable crime or incident reports.

Any requests for copies of related reports or additional information that's not mentioned above, shall be referred to the Custodian of Records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

346.4.1 RESTRICTED INFORMATION
It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

(a) At no time shall identifying information pertaining to a juvenile arrestee, victim or witness be publicly released without prior approval of a competent court.
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(b) Information concerning incidents involving certain sex crimes and other offenses set forth in Government Code § 6254(f) shall be restricted in accordance with applicable statutory provisions.

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

(d) Confidential peace officer personnel information (See Policy Manual § 1026)
   1. The identities of officers involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved officer or upon a formal request filed and processed in accordance with the Public Records Act.

(e) Copies of traffic collision reports (except to the involved parties and their authorized representatives) (Vehicle Code § 20012)

(f) Criminal history information

(g) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation

(h) Active criminal investigative information, active criminal intelligence information and surveillance techniques.

(i) Active internal affairs investigations, or other personnel matters, as governed by state law.

(j) Information pertaining to pending litigation involving this department.

(k) Grand jury testimony and proceedings.

(l) Names of undercover personnel.

(m) Names of informants and information provided by them.

(n) Any information that is otherwise privileged or restricted under state or federal law. (Government Code § 6254(k)).
Court Appearance And Subpoenas

348.1 PURPOSE AND SCOPE
This procedure has been established to provide for the acceptance of subpoenas and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

348.1.1 DEFINITIONS
On-Call - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone or pager if called back.

Standby - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone or pager so that he or she may be directed to appear in court within a reasonable amount of time.

Trailing Status - When an employee remains on standby status for additional court sessions until notified otherwise.

Mandatory Appearance - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

Notice In Lieu Of Subpoena - Consider a “Notice in Lieu of Subpoena” as having the same effect and authority as a subpoena. Department personnel will treat “Notices in Lieu” in the same manner and following the same procedures as for subpoenas. For the purposes of this policy, the term “Subpoena” and “Notice in Lieu of Subpoena” shall be synonymous.

348.2 COURT SUBPOENAS
Employees who receive subpoenas related to their employment with this department are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed, or properly notified. This policy applies to civil and criminal subpoenas. Employees are expected to cooperate with the prosecution to ensure the successful conclusion of a case.

The District Attorney Liaison Officer (DALO) is responsible for receiving subpoenas for MPD personnel and for dispersal to those named in the subpoena. The DALO is responsible for recording and reporting the time expended and overtime earned by MPD personnel for appearances in court, for conferences in the District Attorney’s Office, for juvenile court appearances, for hearings at the Department of Motor Vehicles, Parole Hearings, Federal Trials and for authorized appearances for civil matters, including depositions.

348.2.1 SERVICE OF SUBPOENA
Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee’s course and scope of official duties may be accomplished by
personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)). Subpoena service is also acceptable by mail, courier or court liaison from the court to this department.

Occasionally a subpoena will come in the mail addressed to an employee and may get placed in your mailbox. If this occurs, a copy of the subpoena must be provided to the DALO in order for it to appear on the court calendar and for any compensation.

The DALO will deliver all processed subpoenas to the department subpoena server or to the employee’s supervisor for service. The employee’s immediate supervisor, or designee during the supervisor’s absence, shall be responsible for the timely personal service of subpoenas. (Per the D.A.’s Office, any employee can serve a subpoena.) The supervisor, or designee, shall document the service on the subpoena and return the proof of service to the DALO on the same day that it was received.

Upon service or attempted service of subpoenas, the original subpoena with either the proof of service or notice of non-service is returned to the DALO and all pertinent information will be entered into RMS for tracking and accountability purposes. The subpoena is then returned to the District Attorney's Office or issuing agency.

348.2.2 VALID SUBPOENAS
No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

348.2.3 ACCEPTANCE OF SUBPOENA
(a) Only the employee named in a subpoena, his/her immediate supervisor, a designated agent, or the DALO shall be authorized to accept service of a subpoena. (Penal Code § 1328(c)). Any authorized employee accepting a subpoena shall immediately provide a copy of the subpoena to the DALO. The DALO shall maintain a chronological log, utilizing the Civil Process module within RMS, of all department subpoenas and provide a copy of the subpoena to each involved employee.

(b) Any supervisor or other authorized individual accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.

(c) Once a subpoena has been received by a supervisor or other authorized individual, the supervisor shall serve the employee and complete the service notification. A copy of the subpoena shall be promptly provided to the DALO as well as a copy to the individually named employee.

348.2.4 REFUSAL OF SUBPOENA
Except where previous arrangements with the issuing court exist, training, vacations and regularly scheduled days off are not valid reasons for refusing a subpoena or missing court. If, due to illness
or injury, the named employee is unable to appear in court as directed by a previously served subpoena, he/she shall, at least one hour before the appointed date and time, inform the DALO or the Watch Commander of his/her absence. It shall then be the responsibility of the DALO to notify the issuing authority of the employee's unavailability to appear.

Absence from a subpoenaed court appearance due to a duty status of "Sick" must be supported by a written physician’s excuse delivered to the immediate supervisor the next duty day upon return to duty.

If the immediate supervisor or other authorized individual knows that he/she will be unable to deliver a copy of the subpoena to the named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or other authorized individual may refuse to accept service (Penal Code § 1328(d)).

If a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance and the supervisor or other authorized individual is not reasonably certain that the service can be completed, he/she may refuse to accept service (Penal Code § 1328(e)).

If, after initially accepting service of a subpoena, a supervisor or other authorized individual determines that he/she will be unable to deliver a copy of the subpoena to the individually named employee within sufficient time for the named employee to comply with the subpoena, the supervisor or the DALO 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)).

348.2.5 OFF-DUTY RELATED SUBPOENAS
Employees receiving valid subpoenas for actions taken off-duty not related to their employment with Modesto Police Department shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

348.2.6 FAILURE TO APPEAR
Any employee who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court imposed civil and/or criminal sanctions.

348.2.7 CITIZEN SUBPOENAS
A “Notice of Non-service” form must be attached to any subpoena requiring the appearance of a citizen. Subpoenas for citizens are then sorted by court date and patrol beat for attempt service. The DALO will deliver all processed subpoenas to the department subpoena server for service.

Upon service or attempted service of subpoenas, the original subpoena with either the proof of service or notice of non-service is returned to the DALO and all pertinent information will be entered into RMS for tracking and accountability purposes. The subpoena is then returned to the District Attorney's Office or issuing agency.
348.3 CIVIL SUBPOENAS
The Department will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties as directed by the current Memorandum of Understanding. In such situations, the Department will also reimburse any officer for reasonable and necessary travel expenses.

The Department will receive reimbursement for the officer's compensation through the civil attorney of record who subpoenaed the officer.

348.3.1 PROCEDURE
To ensure that the officer is able to appear when required, that the officer is compensated for such appearance, and to protect the Department's right to reimbursement, officers shall follow the established procedures for the receipt of a civil subpoena.

348.3.2 CIVIL SUBPOENA ACCEPTANCE
Subpoenas shall not be accepted in a civil action in which the officer or Department is not a party without properly posted fees pursuant to Government Code § 68097.6.

348.3.3 PARTY MUST DEPOSIT FUNDS
The party in the civil action that seeks to subpoena an officer must deposit the statutory fee of $275 (Government Code § 68097.2) or $150 for non-sworn for each appearance before such subpoena will be accepted. Parties seeking to have the officer make multiple appearances must make an additional deposit in advance.

The DALO may receive the subpoena and check together if received through the mail and will note on the subpoena that the check was received and the fees were posted. The DALO will send photocopies of the subpoena along with the check to the Finance Department, Accounts Receivable.

The DALO will be responsible for keeping track of court time for the appearance of MPD personnel, and will notify Finance to request that the subpoena issuer be billed for the excess costs as authorized by law or of a refund of fees, if fees exceeded the actual cost of the appearance.

348.3.4 CIVIL PROCESS
The Stanislaus County Sheriff's Office handles the service of civil process documents and the execution of civil arrests or writs requiring the seizure of real or personal property.

348.4 OVERTIME APPEARANCES
If the officer appeared on his/her off-duty time, he/she will be compensated in accordance with the current employee Memorandum of Understanding.

348.5 COURTROOM PROTOCOL
Employees must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.
Court Appearance And Subpoenas

348.5.1 PREPARATION FOR TESTIMONY
Before the date of testifying, the subpoenaed officer shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

348.5.2 COURTROOM ATTIRE
Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks.

348.6 COURTHOUSE DECORUM
Employees shall observe all rules of the court in which they are appearing, refrain from smoking or chewing gum in the courtroom, turn off cell phones, and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

348.7 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE
Any member or employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief of Police, District Attorney's Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

This includes, but is not limited to the following situations:

(a) Providing testimony or information for the defense in any criminal trial or proceeding;

(b) Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or

(c) Providing testimony or information on behalf of or at the request of any party other than any County, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.

348.8 LATERAL TRANSFER COURT APPEARANCES
Many Modesto Police Department officers have previously been employed by other law enforcement agencies as peace officers (Lateral Transfer personnel). Many of these officers are subpoenaed to appear in court based upon their acts or observations that occurred while in these previous peace officer positions. Modesto Police Department personnel will be granted “release time” to appear on subpoenas or Notices in Lieu of Subpoenas for acts or observations that occurred in their previous peace officer positions, with the following provisions:

(a) The Modesto Police Department will allow officers to appear in court during a regular duty day at straight time for court appearances based upon previous law enforcement agency employment. Modesto Police will not pay for overtime on a court appearance for a day off but the officer can, with the agreement of a supervisor, adjust his schedule to compensate for the hours spent in court hour for hour.
Court Appearance And Subpoenas

(b) Officers must provide their own transportation for court appearance outside of Modesto, which is based upon previous law enforcement employment.

(c) The Modesto Police Department will not adjust regular days off (RDO’s) to accommodate court appearances, which are based upon previous law enforcement employment.

(d) Watch Commanders may adjust duty hours to prevent undue hardship on officers who are subpoenaed to appear outside of the Modesto area, when appropriate.

(e) Officers must apply for expenses to their previous employer or the District Attorney’s Office issuing the subpoena for appearances outside of the Modesto area. (Mileage, meals, lodging, etc.)

348.9 FORMER EMPLOYEES APPEARING IN COURT
Former Modesto Police Department employees may on occasion be subpoenaed to appear in court based upon their acts or perceptions that occurred while employed by our agency. Former employees, who were not terminated, shall be compensated for their court appearances when subpoenaed based upon their former MPD duties. They shall be compensated on an hourly basis for the actual time spent in court, based upon the current hourly rate for their previous position.

348.10 COURT, OVERTIME SLIP AND CONTINUANCE
Refer to PR 318 for court appearance, court overtime slip, and continuance procedures.
Reserve Officers

350.1 PURPOSE AND SCOPE
The Modesto 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.

350.2 SELECTION AND APPOINTMENT OF POLICE RESERVE OFFICERS
The Modesto 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.

350.2.1 PROCEDURE
All applicants shall be required to meet and pass the same pre-employment procedures as regular police officers before appointment.

Before appointment to the Police Reserve Unit, an applicant must have completed, or be in the process of completing, a POST approved basic academy or extended basic academy or a combination of Level III and II courses to meet the POST standards for level I or level II officers respectfully.

350.2.2 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.

350.2.3 COMPENSATION FOR POLICE RESERVE OFFICERS
Compensation for reserve officers is provided per the City of Modesto salary schedule.

All reserve officer appointees are issued one uniform and safety equipment. All property issued to the reserve officer shall be returned to the Department upon termination or resignation.

350.3 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 Operations Division. Reserve officers may be assigned to other areas within the Department as needed. Reserve officers are required to work a minimum of 16 hours on average per month.

350.3.1 POLICY COMPLIANCE
Police reserve officers shall be required to adhere to all departmental policies and procedures. A copy of the policies and procedures will be made available to each reserve officer upon appointment and he/she shall become thoroughly familiar with these policies.
Whenever a rule, regulation, or guideline in this manual refers to a sworn regular full-time officer, it shall also apply to a sworn reserve officer unless by its nature it is inapplicable.

350.3.2 RESERVE OFFICER ASSIGNMENTS
All reserve officers will be assigned to duties by the Reserve Coordinator or his/her designee.

350.3.3 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

350.4 FIELD TRAINING
Penal Code § 832.6 requires Level II reserve officers, who have not been released from the immediate supervision requirement per the Completion of the Formal Training Process subsection, to work under the immediate supervision of a peace officer who possesses a Basic POST Certificate.

350.4.1 TRAINING OFFICERS
The Field Training Management Team will assign Field Training Officers to train reserves.

350.4.2 FIELD TRAINING MANUAL
Each new reserve officer will be issued a Field Training Manual at the beginning of his/her training. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Modesto Police Department. The reserve officer shall become knowledgeable of the subject matter as outlined. He/she shall also become proficient with those skills as set forth in the manual.

350.4.3 LEVEL I - TRAINING
Those training at this level, must have completed the POST Basic Academy. These reserve officers will be assigned to a Field Training Officer (FTO). The FTO will be selected by members of the Field Training management team. The reserve officer will be assigned to work with an FTO for a minimum of 400 hours and must complete the entire Field Training Manual.
Reserve Officers

350.4.4 LEVEL II - TRAINING
Those training at this level, must have completed the POST Basic Academy or POST certified Level II and Level III courses. These reserve officers will be assigned to a Field Training Officer (FTO). The FTO will be selected by members of the Field Training management team. The reserve officer will be assigned to work with an FTO for a minimum of 200 hours and must complete the Level II designated portions of the Field Training Manual.

350.4.5 COMPLETION OF THE FORMAL TRAINING PROCESS
When a Level I Reserve officer has satisfactorily completed formal training, he/she will have had a minimum of 400 hours of on-duty training. He/she will no longer be required to ride with a Field Training Officer (FTO), and will be allowed to work any reserve assignment.

When a Level II Reserve officer has satisfactorily completed formal training, he/she will have had a minimum of 200 hours of on-duty training and will be allowed to work any Reserve Level II assignment.

350.5 SUPERVISION OF RESERVE OFFICERS
Reserve officers who have attained the status of Level II shall be under the immediate supervision of a regular sworn officer (Penal Code 832.6(a)(2)), unless working a Level II assignment.

350.5.1 SPECIAL AUTHORIZATION REQUIREMENTS
Reserve officers certified as Level I may, with prior authorization of the Reserve Coordinator and on approval of the Division Commander, be relieved of the "immediate supervision" requirement. Level I reserve officers may function under the authority of Penal Code § 832.6(a)(1) only for the duration of the assignment or purpose for which the authorization was granted.

In the absence of the Reserve Coordinator and the Division Commander, the Watch Commander may assign a certified Level I reserve officer to function under the authority of Penal Code § 832.6(a)(1) for specific purposes and duration.

350.5.2 RESERVE OFFICER MEETINGS
All reserve officer meetings will be scheduled and conducted by the Reserve Coordinator. All reserve officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the Reserve Coordinator.

350.5.3 IDENTIFICATION OF RESERVE OFFICERS
All reserve officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full-time officer. The identification card will be the standard identification card with the exception that "Reserve" will be indicated on the card.

350.5.4 UNIFORM
Reserve officers shall conform to all uniform regulation and appearance standards of this department.
Reserve Officers

350.5.5 INVESTIGATIONS AND COMPLAINTS
If a reserve officer has a complaint made against him/her or becomes involved in an internal investigation, that complaint or internal investigation may be investigated by the Reserve Coordinator, at the discretion of the Operations Division Commander.

Reserve officers are considered at-will employees. Government Code § 3300 et seq. applies to reserve officers with the exception that the right to hearing is limited to the opportunity to clear their name.

Any disciplinary action that may have to be administered to a reserve officer shall be accomplished as outlined in the Policy Manual.

350.5.6 RESERVE OFFICER EVALUATIONS
While in training reserves will be continuously evaluated using standardized daily observation reports. The reserve will be considered a trainee until training is completed. Reserves having completed their field training will be evaluated annually using performance dimensions applicable to the duties and authorities granted to that reserve.

350.6 FIREARMS REQUIREMENTS
Penal Code § 830.6(a)(1) designates a reserve officer as having peace officer powers during his/her assigned tour of duty, provided the reserve officer qualifies or falls within the provisions of Penal Code § 832.6.

350.6.1 CARRYING WEAPON ON DUTY
Penal Code § 830.6(a)(1) permits qualified reserve officers to carry a loaded firearm while on-duty. It is the policy of this department to allow reserves to carry firearms only while on-duty or to and from duty.

350.6.2 CONCEALED FIREARMS PROHIBITED
No reserve officer will be permitted to carry a concealed firearm while in an off-duty capacity, other than to and from work, except those reserve officers who possess a valid CCW permit. An instance may arise where a reserve officer is assigned to a plainclothes detail for his/her assigned tour of duty. Under these circumstances, the reserve officer may be permitted to carry a weapon more suited to the assignment with the knowledge and approval of the supervisor in charge of the detail.

Any reserve officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to departmental standards. The weapon must be registered by the reserve officer and be inspected and certified as fit for service by a departmental armorer.

Before being allowed to carry any optional firearm during an assigned tour of duty, the reserve officer shall have demonstrated his/her proficiency with said weapon.

When a reserve officer has satisfactorily completed the field training program (as outlined in Policy Manual § 350.4), he/she may be issued a permit to carry a concealed weapon. The decision to issue a concealed weapon permit will be made by the Chief of Police with input from the
Reserve Officers

Reserve Program Coordinator and administrative staff. In issuing a concealed weapon permit a reserve officer's qualification will be individually judged. A reserve officer's dedication to the program and demonstrated maturity, among other factors, will be considered before a concealed weapon permit will be issued. Once issued, the concealed weapon permit will be valid only for as long as the reserve officer remains in good standing with the Modesto Police Department Reserve Unit, and within the time limits specified on the CCW permit.

350.6.3  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, with the following exceptions:

(a)  All reserve officers are required to qualify semi-annually

(b)  Should a reserve officer fail to qualify, that reserve officer will not be allowed to carry a firearm until he/she has reestablished his/her proficiency

350.7  EMERGENCY CALL-OUT FOR RESERVE PERSONNEL
The Reserve Coordinator shall develop a plan outlining an emergency call-out procedure for reserve personnel. The reserve call-out list is maintained in the Watch Commander's Office.

350.8  ORGANIZATIONAL STRUCTURE
The Reserve Unit will adhere to the following Chain of Command within the department:

(a)  Assistant Reserve Coordinator (full-time Officer)
(b)  Reserve Coordinator (full-time Sergeant)
(c)  Reserve Liaison Lieutenant (full-time Lieutenant)
(d)  Division Commander (full-time Captain)
(e)  Chief of Police

The Chain of Command shall be adhered to by officers within the Reserve Unit, and between officers of the Reserve Unit and regular officers of the department. The Chain of Command shall not be bypassed or circumvented except in an emergency.

Rank structure within the Reserve Unit:

(a)  Reserve Captain (optional)
(b)  Reserve Lieutenant
(c)  Reserve Sergeant
(d)  Reserve Officer

350.9  REVISIONS
Adopted October 1, 2014
- April 1, 2016
Outside Agency Assistance

352.1 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.

352.2 POLICY
It is the policy of the Modesto 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.

352.3 AGENCY JURISDICTION
The jurisdiction of the Modesto Police Department is defined as the geographical area within the incorporated areas of the City of Modesto. These boundaries are defined in official City of Modesto maps. The geographical boundaries of the City of Modesto are generally; Bangs, Pelandale, Claratina and Sylvan Avenues to the North, BNSF Rail Road, Norseman Drive and Mitchell Road to the East, Whitmore Avenue and the Tuolumne River (East of 9th Street) to the South and State Route 99 and Morse and Carpenter Roads to the West.

All addresses and locations within the City of Modesto are “coded” into Communication's Computer Assisted Dispatch (CAD) system. This information allows Communications personnel to verify whether an address or location is to be served by the Modesto Police Department.

352.4 CONCURRENT JURISDICTION
The Modesto Police Department has concurrent jurisdiction with other law enforcement agencies. These include: California Highway Patrol; Stanislaus County Sheriff’s Department; and Modesto Junior College Campus Safety.

352.4.1 CALIFORNIA HIGHWAY PATROL
The California Highway Patrol has jurisdiction within the Modesto City limits for traffic related activity on the freeways, on-ramps, off-ramps and for any injury accidents involving occupied school buses.

The Modesto Police Department is responsible for all criminal activity and suicides that occur on the freeway systems within City limits. The Department is also available to assist the California Highway Patrol upon request.

352.4.2 STANISLAUS COUNTY SHERIFF’S DEPT
The Stanislaus County Sheriff’s Department has jurisdiction within the Modesto City limits in “county islands.” These “islands” are pockets of unincorporated land within Modesto City’s borders. Additionally, within the City limits, the Stanislaus County Sheriff’s Department has jurisdiction over all property, duties and entities mandated by State Law.
Outside Agency Assistance

352.4.3 MODESTO JUNIOR COLLEGE CAMPUS SAFETY
Modesto Junior College Campus Safety will have initial responsibility for managing campus disruptions, demonstrations and special events on all campus properties. Campus Safety Command Staff will evaluate each incident to determine required assistance by the Modesto Police Department.

Modesto Junior College Campus Safety shall investigate all minor incidents, including some misdemeanors and all infractions. They will also investigate all non-injury accidents, as well as all parking violations occurring on campus.

The Modesto Police Department will investigate all felonies and any misdemeanors requiring arrests, prosecution and/or a criminal complaint.

352.5 MUTUAL AID
Under the provisions of Government Code §§ 8550, 8569, 8616 and 8668 all law enforcement agencies in Stanislaus County have entered into a county wide mutual aid agreement. The intent of the agreement is to provide interagency support during times of natural disaster, war, sabotage, civil disobedience, terrorist acts and other emergency conditions that require resources beyond that of the requesting agency.

The Stanislaus County Operational Area (including the City of Modesto) is part of Mutual Aid Region IV. The Stanislaus County Sheriff’s Department is the Operational Area Coordinator for Law Enforcement Mutual Aid. The contact is the on-duty Watch Commander. The Sacramento County Sheriff’s Department is the Region IV Coordinator for law enforcement mutual aid. The contact is the on-duty Watch Commander. When resources within the Stanislaus County Operational Area are depleted, the Region IV Coordinator can be contacted for additional resources via the Stanislaus County Sheriff’s Department. A request for resources from the Operational Area will come from the Region IV coordinator to the Stanislaus County Sheriff’s Department, who coordinates filling the request from available Operational Area resources.

A request for mutual aid made to the Modesto Police Department, from the Stanislaus County Sheriff’s Department shall be directed to the on-duty Watch Commander:

(a) The on-duty Watch Commander may commit as many personnel as are on-duty, while still maintaining sufficient staffing to continue routine police functions within our jurisdiction.

(b) Requests beyond those that are immediately available shall require authorization from the Operations Division Commander.

(c) The Operations Division Commander and the Chief of Police shall be notified of all requests for mutual aid as soon as possible.

A request for mutual aid made by the Modesto Police Department shall be directed to the on-duty Watch Commander:

(a) The on-duty Watch Commander shall contact and coordinate the request for mutual aid with the Operational Area representative (Stanislaus County Sheriff’s Department).
Outside Agency Assistance

(b) The on-duty Watch Commander shall notify the Operations Commander and the Chief of Police as soon as possible of the request for mutual aid. Outside personnel will report to the requesting agencies' “Incident Commander” and will be under their command.

The Communications Center will make a radio “patch,” between agencies, linking all radio communications. A sergeant or person of higher rank can only authorize this “patch”.

Costs for mutual aid are the responsibility of each agency participating. In the case of State or Federal involvement, mutual aid costs will be paid for by the State/Federal government.

Staff should review all incidents involving mutual aid for training or revision issues.

352.6 MUTUAL AID - STATE LEVEL
Under the provisions of the Government Code, requests for mutual aid at the State level are coordinated through the Stanislaus County Sheriff’s Department. The State Office of Emergency Services, Law Enforcement Division then coordinates the allocation of needed resources.

A local emergency must be declared by proclamation before National Guard assistance can be sought. The proclamation and request will be forwarded to the Governor’s office via the Stanislaus County Sheriff’s Department. Should the request be approved, the Governor will commit the National Guard who will then coordinate with the Stanislaus County Sheriff’s Department for deployment and mission. The National Guard is under their own command and will work in conjunction with local agencies

352.7 MUTUAL AID - FEDERAL LEVEL
Only State government may make a request to the President to provide federal resources to assist in restoring or maintaining law and order. State government may only make this request after all available forces, including State military are unable to control the emergency. Only after the President has agreed to provide such forces and his proclamation has been published will federal forces be provided and deployed.

352.8 MUTUAL AID - OTHER
In limited-scope situations, agencies may utilize in-place, day-to-day mutual aid protocol. This type of assistance may include, but is not limited to:

(a) Requests for: K9’s; back up or assistance on calls; assistance on investigations; pursuit assistance; search warrant service.

(b) The on-duty Watch Commander shall be notified of all requests for mutual aid assistance as soon as practical. The Watch Commander does not need to be informed of informal, “routine” assistance, (i.e. back-up on traffic stops, etc.) to other agencies.

When such assistance is rendered, a case number will be issued to report action taken by Modesto Police Department personnel.
Outside Agency Assistance

352.9 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. 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.

352.9.1 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 Modesto Police Department shall notify his/her supervisor or the Watch Commander and Stanislaus Regional 9-1-1 as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

352.10 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.

352.11 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.

352.12 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 Division Commander or the authorized designee.
Outside Agency Assistance

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 Stanislaus Regional 9-1-1 and the Watch Commander to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

352.13 REVISIONS
Adopted October 1, 2014

- Revised February 1, 2017
Nuisance Abatement

354.1 POLICY
It is the policy of the Modesto Police Department to utilize a “zero tolerance” approach to nuisance properties located within the boundaries of the city. Department personnel should seek resolution through enforcement, education and collaboration with other public and private agencies.

354.2 GOAL
The Modesto Police Department is dedicated to abating problem-oriented policing nuisance properties/areas by any legal means available. The Modesto Police Department’s goal is to return the affected residential or business area back to the law-abiding citizens that live, work and play there.

354.3 APPLICABLE AUTHORITY LAWS AND STATUTES
In accordance with this policy and the associated procedure, Modesto Police Department personnel should reference the below listed statutes when dealing with nuisance properties.

Health & Safety § 11570
“Every building or place used for the purposes of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog specified in this division, and every building or place wherein or upon which those acts take place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.”

Modesto Muni Code § 4-12.304
“It is hereby declared a public nuisance and a violation of this Code for any responsible party or owner of any premises in this City to permit their premises to be used in such a manner that any one (1) or more of the activities described in the following subsections are found to occur repeatedly thereon:”

(a) The illegal sale of controlled or illegal drugs or substances;
(b) The illegal use of controlled substances and other illegal drugs or substances;
(c) The frequent gathering, or coming and going, of people who have an intent to purchase or use controlled substances or other illegal drugs or substances on the premises;
(d) The occurrence of prostitution;
(e) Unlawful activities of a criminal street gang (as defined in Penal Code Section 186.22);
(f) The making or continuing, or causing to be made and continued, of any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to more than one reasonable person of normal sensitivity residing in the area. This section shall only become effective when the police department has documented more than five (5) calls for service over any ninety (90) day period to the same address and/or dwelling in relation to making or
continuing, or causing to be made and continued, any loud unnecessary and unusual noise which disturbs the peace and quiet of the neighborhood;

(g) The firing of gunshots or brandishing of weapons by a resident of the premises, or by a guest of a resident;

(h) The use of property to provide shelter to or seclusion of any action, act, or occurrence, which is a crime under Federal, State, or local laws. To provide such shelter shall be to harbor a public nuisance, and shall be unlawful."

354.4 PROCEDURE
Refer to Procedure PR 315.
Registered Offender Information

356.1 PURPOSE AND SCOPE
This policy establishes guidelines by which the Modesto 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.

356.2 POLICY
It is the policy of the Modesto 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.

356.3 REGISTRATION
The Special Victims Unit 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. The Special Victims Unit Police Clerk is assigned to register offenders, however, if it is reasonable to do so, an investigator assigned to related investigations may conduct the registration in order to best evaluate any threat the person may pose to the community. Employees assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the Special Victims Unit Police Clerk shall ensure that the registration information is provided to the California Department of Justice (DOJ) in accordance with applicable law (Health and Safety Code § 11594; 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.

356.3.1 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.).

356.4 MONITORING OF REGISTERED OFFENDERS
The Special Victims Unit 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 may include:

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

(b) Review of information on the California DOJ website for sex offenders.
(c) Contact with a registrant's parole or probation officer.

Any discrepancies should be reported to the California DOJ.

The Special Victims Unit Supervisor should also establish a procedure to routinely disseminate information regarding registered offenders to Modesto Police Department personnel, including timely updates regarding new or relocated registrants.

356.5 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 Modesto Police Department’s website. Information on sex registrants placed on the Modesto Police Department’s website shall comply with the requirements of Penal Code § 290.46.

The Police Civilian Supervisor may release local registered offender information to residents only in accordance with applicable law (Penal Code § 290.45; Penal Code § 290.46; Penal Code § 457.1), and in compliance with a California Public Records Act (Government Code § 6250-6276.48) request.

356.5.1 LIMITED RELEASE WITHIN COLLEGE CAMPUS COMMUNITY

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the Internet website, to be released to a campus community (Penal Code § 290.01(d)):

(a) The offender's full name
(b) The offender's known aliases
(c) The offender's sex
(d) The offender's race
(e) The offender's physical description
(f) The offender's photograph
(g) The offender's date of birth
(h) Crimes resulting in the registration of the offender under Penal Code § 290
(i) The date of last registration
Registered Offender Information

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

356.5.2 RELEASE NOTIFICATIONS
Registrant information that is released should include notification that:

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

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

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

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

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

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

356.6 REVISIONS
Adopted October 1, 2014

- Revised February 1, 2020
Major Incident Notification

358.1 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.

358.2 POLICY
The Modesto 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.

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

- Homicides
- Traffic accidents with multiple fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shooting Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Modesto official
- Arrest of a department employee or prominent Modesto official
- Aircraft crash with major damage and/or injury or death
- In-custody deaths

358.4 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.

Incidents of a significant or sensitive nature, not meeting the criteria above, should be considered for distribution via "Command Staff" and/or "Exec Group" e-mail distribution. Attached is a Critical Incident Notification Guide, which should be used by the Watch Commander.

358.4.1 STAFF NOTIFICATION
In the event an incident occurs described in the Major Incident Notification Policy, the Chief of Police shall be notified along with the affected Division Commander and the Detective Lieutenant if that division is affected.
358.4.2 DETECTIVE NOTIFICATION
If the incident requires that a detective respond from home, the immediate supervisor of the appropriate detail shall be contacted who will then contact the appropriate detective.

358.4.3 TRAFFIC UNIT NOTIFICATION
In the event of a traffic fatality or major injury, the Traffic Sergeant shall be notified who will then contact the appropriate accident investigator. The Traffic Sergeant will notify the Traffic Lieutenant.

358.4.4 PUBLIC INFORMATION OFFICER (PIO)
The Public Information Officer shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

358.5 WATCH REPORTS
Watch Commanders will be responsible for previewing the AM / PM automated Watch Reports approximately one hour in advance of its distribution to ensure that all significant crime and incident related information is included.

<table>
<thead>
<tr>
<th>Incident types required on AM / PM Watch Reports:</th>
</tr>
</thead>
<tbody>
<tr>
<td>187 PC</td>
</tr>
<tr>
<td>207 PC</td>
</tr>
<tr>
<td>211 PC</td>
</tr>
<tr>
<td>212 PC</td>
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<tr>
<td>215 PC</td>
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<tr>
<td>243.4 PC</td>
</tr>
</tbody>
</table>

If important information has not been captured the Watch Commander will include it under the Watch Commander Alerts section of the Watch Report. Watch Commanders will provide an overview of the shift, by entering general comments on call load, incidents requiring a significant amount of resources and upgrading the Department's condition status YELLOW or above (and their length).

358.6 REVISIONS
Adopted October 1, 2014
- Revised September 1, 2018
- Revised November 1, 2018
Death Investigation

360.1 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.

360.2 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.

360.2.1 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 subdivision (e) of Section 1746 of the Health and Safety Code 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.
Death Investigation

(k) Accidental poisoning (food, chemical, drug, therapeutic agents).
(l) Occupational diseases or occupational hazards.
(m) Known or suspected contagious disease and constituting a public hazard.
(n) All deaths of unidentified persons.
(o) Suspected Sudden Infant Death Syndrome (SIDS) deaths.

The body shall not be disturbed or moved from the position or place of death without permission of the Coroner.

360.2.2 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 police report.

360.2.3 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.

360.2.4 UNIDENTIFIED DEAD BODIES
If the identity of a dead body cannot be established after the Coroner arrives, Department personnel shall list the decedent as "John Doe" or "Jane Doe" in the police report.

360.2.5 DEATH INVESTIGATION REPORTING
All incidents involving a death shall be documented in a police report and given a case number.

360.2.6 SUSPECTED HOMICIDE
If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the Watch Commander or field supervisor shall be notified. The Watch Commander or field supervisor will contact the Violent Crimes Against Persons Unit Supervisor.
Death Investigation

Refer to Procedure PR 414 - Preliminary Homicide Investigations

360.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES
Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal-OSHA is notified by telephone or teletype with all pertinent information (8 CCR 342(b)).

360.3 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
- Revised April 1, 2017
Identity Theft

362.1 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.

362.2 REPORTING
(a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (Penal Code § 530.5) shall initiate a report. The officer should give the victim a copy of the department's Identity Theft Pamphlet with case number.

(b) Officers of this department should investigate and report crimes occurring within this jurisdiction which have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the credit card fraud occurred and is reported in this jurisdiction).

(c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).

(d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service and DMV) with all known report numbers.

(e) The reporting officer should inform victims of identity theft that the California Identity Theft Registry is available to help those who are wrongly linked to crimes. The registry can be checked by law enforcement and other authorized persons to investigate whether a criminal history or want was created in the victim's name (Penal Code § 530.7). Information regarding the California Identity Theft Registry can be obtained by calling toll free (888) 880-0240.

(f) Following supervisory review and departmental processing, the initial report should be forwarded to the Investigative Services Division for possible follow up investigation.
Private Persons Arrests

364.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidance for the handling of made pursuant to Penal Code § 837.

364.2 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.

364.3 ARRESTS BY PRIVATE PERSONS
Penal Code § 837 provides that a private person may arrest another:

(a) For a public offense committed or attempted in his or her presence;
(b) When the person arrested has committed a felony, although not in his or her presence;
(c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

364.4 OFFICER RESPONSIBILITIES
Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

(a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.
Private Persons Arrests

1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b) (1). The officer must include the basis of such a determination in a related report.

2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

(b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:

1. Take the individual into physical custody for booking
2. Release the individual pursuant to a Notice to Appear
3. Release the individual pursuant to Penal Code § 849
4. File a criminal complaint with the District Attorney's Office

364.5 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. The officer will then complete the investigation and submit all appropriate forms/reports.
Anti-Reproductive Rights Crimes Reporting

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

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

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

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

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

366.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

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

(b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Police Civilian Supervisor in Records.

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

1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.
2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).
Limited English Proficiency Services

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

368.1.1 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.

**Bilingual** - refers to the ability to use two languages proficiently.

**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.

**MPD Authorized Interpreter (MPDAI)** - is a bilingual MPD employee who has been tested and authorized to interpret for others in certain situations.

**MPDAI List** - a delineation of MPD personnel who are bilingual and are authorized to act as interpreters. The City of Modesto Human Resources Department will create the list and forward it to the Administrative Sergeant who will maintain the list and provide it to designated customer contact locations, including the Stanislaus Regional 9-1-1 Center.

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

368.2 POLICY
It is the policy of the Modesto 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.

368.3 LEP COORDINATOR
The Administrative Sergeant is the Police Department LEP Coordinator responsible for coordinating and implementing all aspects of the MPD’s services to LEP individuals.
The responsibilities of the LEP Coordinator include, but are not limited to:

(a) Coordinating and implementing all aspects of the Modesto Police Department's LEP services to LEP individuals.

(b) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Watch Commander and Communications Supervisor. The list should include information regarding the following:
   1. Languages spoken
   2. Contact information
   3. Availability

(c) 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.

(d) 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.

(e) 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.

(f) Identifying standards and assessments to be used by the Department to qualify individuals as qualified bilingual members or authorized interpreters.

(g) 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.

(h) Receiving and responding to complaints regarding department LEP services.

(i) 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.

368.4 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:
Limited English Proficiency Services

(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.

368.5 TYPES OF LEP ASSISTANCE AVAILABLE
Modesto 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.

368.6 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.

368.7 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.

368.8 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.

368.9 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 Human Resources 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.

368.9.1 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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368.9.2 FAMILY, FRIENDS AND BYSTANDERS
In other than exigent circumstances, MPD personnel should make every effort to only use family, friends, or bystanders for interpreting in very informal, non-confrontational situations, and only to obtain basic information at the request of the LEP individual. Using family, friends, or bystanders to interpret could result in a breach of confidentiality, a conflict of interest, or an inadequate interpretation. Barring exigent circumstances, MPD personnel should not use minor children to provide interpreter services.

368.9.3 EXIGENT CIRCUMSTANCES
MPD personnel are expected to follow the general procedures outlined in this Policy; however exigent circumstances may require some deviations. In such situations, personnel are to use the most reliable, temporary interpreter available, such as bilingual MPD personnel. However, once an exigency has passed, all personnel are expected to revert to the general procedures in this Policy.

368.10 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.

368.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE
The Modesto Police Department will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

368.11.1 EMERGENCY CALLS TO 9-1-1
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 Stanislaus Regional 9-1-1, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.
Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

368.12 FIELD ENFORCEMENT
MPD personnel in the field in need of interpretation services will attempt to identify the LEP individual’s primary language through the use of language ID cards and request a MPDAI or other LEP resources via Stanislaus Regional 9-1-1.

368.13 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 MPD Authorized Interpreter (MPDAI) 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.

368.14 CUSTODIAL INTERROGATIONS AND CRIME WITNESS INTERVIEWS
These scenarios potentially involve statements with evidentiary value upon which a witness may be impeached in court. As such, accuracy is a priority. Moreover, a failure to protect the rights of LEP individuals during arrests and interrogations presents risks to the integrity of the process.

MPD personnel must recognize that miscommunication during the interrogations or crime witness interviews may have a substantial impact on the evidence presented in any related criminal prosecution. A qualified interpreter shall be used for any interrogation or taking of a formal statement where the suspect’s or witness’ legal rights could be adversely impacted. When an
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MPDAI is not available or not appropriate, personnel can contact the Stanislaus Regional 9-1-1 Center for other LEP resources.

368.15 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.

368.16 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.

368.17 TRAINING
To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Training Supervisor shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive periodic refresher training. The Training Supervisor 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.

368.17.1 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.
Communications with Persons with Disabilities

370.1 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.

370.1.1 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.

370.2 POLICY
It is the policy of the Modesto 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.

370.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR
The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator is the/a Support Division Supervisor, who reports to the Support Division Commander or the authorized designee.

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

(a) Working with the City ADA coordinator regarding the Modesto Police Department's efforts to ensure equal access to services, programs and activities.

(b) Developing reports, new procedures, or recommending modifications to this policy.
Communications with Persons with Disabilities

(c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

(d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Communications Supervisor. The list should include information regarding the following:
   1. Contact information
   2. Availability

(e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.

(f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.

(g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

370.4 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.
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370.5 INITIAL AND IMMEDIATE CONSIDERATIONS
Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems. Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

(a) The methods of communication usually used by the individual.
(b) The nature, length and complexity of the communication involved.
(c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Modesto 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.

370.6 TYPES OF ASSISTANCE AVAILABLE
Modesto 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.
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Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

370.7 AUDIO RECORDINGS AND ENLARGED PRINT
The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

370.8 QUALIFIED INTERPRETERS
A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time but in no event longer than one hour if requested.
(b) Experienced in providing interpretation services related to law enforcement matters.
(c) Familiar with the use of VRS and/or video remote interpreting services.
(d) Certified in either American Sign Language (ASL) or Signed English (SE).
(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

370.9 TTY AND RELAY SERVICES
In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).
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Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

370.10 COMMUNITY VOLUNTEERS
Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

370.11 FAMILY AND FRIENDS
While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

(a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.

(b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

370.12 REPORTING
Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.
370.13 FIELD ENFORCEMENT
Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

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

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

370.13.1 FIELD RESOURCES
Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

(a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.

(b) Exchange of written notes or communications.

(c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.

(d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.

(e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

370.14 CUSTODIAL INTERROGATIONS
In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual
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has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. Miranda warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written Miranda warning card.

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

370.15 ARREST AND BOOKINGS
If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee’s health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

370.16 COMPLAINTS
The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

370.17 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.
370.18 TRAINING
To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

(a) Awareness and understanding of this policy and related procedures, related forms and available resources.
(b) Procedures for accessing qualified interpreters and other available resources.
(c) Working with in-person and telephone interpreters and related equipment.

The Training Supervisor is responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training Supervisor 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.

370.19 REVISIONS
Adopted October 1, 2014

• Revised April 1, 2016
Mandatory Employer Notification

372.1 PURPOSE AND SCOPE
The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

372.2 POLICY
The Modesto Police Department will meet the reporting requirements of California law to minimize the risks to children and others.

372.3 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING
In the event a school employee is arrested for any offense enumerated below, the Chief of Police or his/her designee is required to report the arrest as follows:

372.3.1 ARREST OF PUBLIC SCHOOL TEACHER
In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

372.3.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE
In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

372.3.3 ARREST OF PRIVATE SCHOOL TEACHER
In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief of Police or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher
Mandatory Employer Notification

and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

372.3.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR
In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591.5 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief of Police or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor’s Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

372.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES
In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

372.5 REVISIONS
Adopted October 1, 2014
- Revised April 1, 2016
- Revised July 1, 2016
- Revised February 1, 2017
- Revised February 1, 2020
Chaplains

376.1 PURPOSE AND SCOPE
This policy establishes the guidelines for Modesto Police Department chaplains to provide counseling or emotional support to members of the Department, their families and members of the public.

376.2 POLICY
The Modesto Police Department shall ensure that department chaplains are properly appointed, trained and supervised to carry out their responsibilities without financial compensation.

376.3 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) 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.

376.4 RECRUITMENT, SELECTION AND APPOINTMENT
The Modesto 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.

376.4.1 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 or his/her designee and the senior chaplain.
(d) Successfully complete an appropriate-level background investigation.
(e) Complete an appropriate probationary period as designated by the Chief of Police.
Chaplains

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.

376.5 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 Modesto Police Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard Modesto 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.

376.6 SENIOR CHAPLAIN
The Chief of Police shall delegate certain responsibilities to a senior chaplain. The senior chaplain shall be appointed by and directly responsible to the Support Division Commander or the authorized designee.

The senior chaplain shall serve as the liaison between the chaplains and the Chief of Police. The function of the senior chaplain 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 senior chaplain and/or Watch Commander.

The responsibilities of the senior chaplain 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.
(h) Planning periodic recognition events.
Chaplains

(i) Maintaining liaison with other agency chaplain coordinators.

The Chaplain Supervisor may appoint an additional senior chaplain to assist in the coordination of chaplains and their activities.

An evaluation of the overall use of chaplains will be conducted on an annual basis by the Chaplain Supervisor.

376.7 DUTIES AND RESPONSIBILITIES

Chaplains assist the Department, its members and the community, as needed. Assignments of chaplains will usually be to augment the Operations 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 senior chaplain 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 Modesto Police Department.

376.7.1 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.

376.7.2 OPERATIONAL GUIDELINES

(a) Chaplains will be scheduled to be on-call for a period of seven consecutive days during each month, beginning on Monday and ending on the following Sunday.

(b) Chaplains shall be permitted to ride with officers during any shift and observe Modesto Police Department operations, provided the Watch Commander has been notified and has approved the activity.

(c) Chaplains shall not be evaluators of members of the Department.

(d) In responding to incidents, a chaplain shall never function as an officer.

(e) 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.

(f) Chaplains shall serve only within the jurisdiction of the Modesto Police Department unless otherwise authorized by the Chief of Police or the authorized designee.
Chaplains

(g) Each chaplain shall have access to current department member rosters, addresses, telephone numbers, duty assignments and other information that may assist in his/her duties. Such information will be considered confidential and each chaplain will exercise appropriate security measures to prevent distribution of the data.

376.7.3 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.

376.7.4 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.

376.7.5 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.
Chaplains

(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.
(f) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain’s ability to assist.

376.7.6 CHAPLAIN MEETINGS
All chaplains are required to attend scheduled meetings. Any absences must be satisfactorily explained to the senior chaplain.

376.8 PRIVILEGED COMMUNICATIONS
No person who provides chaplain services to members of the Department may work or volunteer for the Modesto 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 Modesto Police Department member concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

376.9 TRAINING
The Department will establish a minimum number of training hours and standards for department chaplains. The training, as approved by the Training Sergeant, 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
Chaplains

- Officer injury or death
- Sensitivity and diversity

376.10 MANUAL OF REGULATIONS
Refer to the Manual of Regulations - Modesto Police Department Volunteer Organizations for further information and procedures. This manual is located on the MPD Intranet under "Manuals".

376.11 REVISIONS
Adopted October 1, 2014
- Revised April 1, 2016
Public Safety Video Surveillance System

378.1 PURPOSE AND SCOPE
This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

378.2 POLICY
The Modesto Police Department operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

378.3 OPERATIONAL GUIDELINES
Only department-approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of video surveillance technology and should consult with and be guided by legal counsel as necessary in making such determinations.

378.3.1 PLACEMENT AND MONITORING
Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation, or other obstructions, should also be evaluated when determining placement.

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public video surveillance system may be useful for the following purposes:

(a) To prevent, deter, and identify criminal activity.
(b) To target identified areas of gang and narcotics complaints or activity.
(c) To respond to critical incidents.
Public Safety Video Surveillance System

(d) To assist in identifying, apprehending, and prosecuting offenders.
(e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
(f) To augment resources in a cost-effective manner.
(g) To monitor pedestrian and vehicle traffic activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the Watch Commander’s office and Stanislaus Regional 9-1-1. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Watch Commander or trained personnel in Stanislaus Regional 9-1-1 are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination, or retention is prohibited.

378.3.2 CAMERA MARKINGS
All public areas monitored by public safety surveillance equipment shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs should be well lit, placed appropriately and without obstruction to ensure visibility.

378.3.3 INTEGRATION WITH OTHER TECHNOLOGY
The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems and video enhancement or other analytical technology, requires additional safeguards.

378.4 VIDEO SUPERVISION
Supervisors should monitor video surveillance access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.
378.4.1 VIDEO LOG
A log should be maintained at all locations where video surveillance monitors are located. The log should be used to document all persons not assigned to the monitoring locations who have been given access to view or monitor images provided by the video surveillance cameras. The logs should, at a minimum, record the:

(a) Date and time access was given.
(b) Name and agency of the person being given access to the images.
(c) Name of person authorizing access.
(d) Identifiable portion of images viewed.

378.4.2 PROHIBITED ACTIVITY
Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

378.5 STORAGE AND RETENTION OF MEDIA
All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule and for a minimum of one year. Prior to destruction, written consent shall be obtained from the City Attorney. If recordings are evidence in any claim filed or any pending litigation, they shall be preserved until pending litigation is resolved (Government Code § 34090.6).

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

378.5.1 EVIDENTIARY INTEGRITY
All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as appropriate to preserve
individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

378.6 RELEASE OF VIDEO IMAGES
All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Modesto Police Department.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Watch Commander for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

378.7 VIDEO SURVEILLANCE AUDIT
The Chief of Police or the authorized designee will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline or policy.

The results of each review shall be appropriately documented and maintained by the Chief of Police or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

378.8 TRAINING
All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

378.9 REVISIONS
Adopted October 1, 2014

- Revised July 1, 2016
- Revised July 1, 2020
Child and Dependent Adult Safety

380.1 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.

380.2 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 Modesto 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.

380.3 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.
380.3.1  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.

380.3.2  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

380.3.3 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.

380.4 DEPENDENT WELFARE SERVICES  
Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked patrol car, or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

380.5 TRAINING  
The Training Sergeant 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).

380.6 REVISIONS  
Adopted October 1, 2014
Child and Dependent Adult Safety

- Revised February 1, 2017
- Revised April 1, 2020
- Revised May 1, 2021
Service Animals

382.1 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).

382.1.1 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)).

382.2 POLICY
It is the policy of the Modesto 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.

382.3 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
schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

382.4 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 Modesto Police Department affords to all members of the public (28 CFR 35.136).

382.4.1 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.

382.4.2 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.

382.4.3 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.

382.4.4 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
Service Animals

animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

382.5 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
Volunteer Program

384.1 PURPOSE AND SCOPE
It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn officers and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

384.1.1 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.

384.2 VOLUNTEER MANAGEMENT

384.2.1 VOLUNTEER COORDINATOR
The Volunteer Coordinator shall be appointed by the Support Division Commander. The function of the Volunteer Coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist staff and volunteer efforts to jointly provide more productive services. The Volunteer Coordinator should work with other Department staff on an ongoing basis to assist in the development and implementation of volunteer-staffed positions.

The Volunteer Coordinator, or his/her designee, shall be responsible for the following:

(a) Recruiting, selecting and training qualified volunteers for various positions.

(b) Facilitating the implementation of new volunteer activities and assignments.

(c) Maintaining records for each volunteer.

(d) Tracking and evaluating the contribution of volunteers.

(e) Maintaining the volunteer handbook and outlining expectations, policies and responsibilities for all volunteers.

(f) Maintaining a record of volunteer schedules and work hours.

(g) Completion and dissemination as appropriate of all necessary paperwork and information.

(h) Planning periodic recognition events.

(i) Administering discipline when warranted.
Volunteer Program

(j) Maintaining liaison with other volunteer-utilizing programs in the community and assisting in community-wide efforts to recognize and promote volunteering.

384.2.2 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.

384.2.3 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.

384.2.4 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 is given by the Support Division Administrative Assistant. 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. All volunteers shall receive a copy of the Volunteer Organizations - Manual of Regulations.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.
384.2.5 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.

384.2.6 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.

384.2.7 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.
384.3 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.

384.4 CONFIDENTIALITY
Unless otherwise directed by a supervisor or departmental policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by departmental policy and supervisory personnel.

Each volunteer will be required to sign an Employee Statement Form 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 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.

384.5 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.

384.5.1 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:

(a) Verification that the volunteer possesses a valid California Driver License.
Volunteer Program

(b) An Explorer must be at least 18 years old and have a valid California Driver's License. The Volunteer Coordinator should insure that all volunteers receive safety briefing updates.

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.

384.5.2 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.

384.6 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. Refer to Manual of Regulations - Modesto Police Department Volunteer Organizations for further information.

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.

384.7 EVALUATION
An evaluation of the overall volunteer program will be conducted periodically by the Volunteer Coordinator.

384.8 MANUAL OF REGULATIONS
Refer to the Manual of Regulations - Modesto Police Department Volunteer Organizations for further information and procedures. This manual is located on the MPD Intranet under "Manuals".
Off-Duty Law Enforcement Actions

386.1 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 Modesto Police Department with respect to taking law enforcement action while off-duty.

386.2 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.

386.3 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/or 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.

386.4 DECISION TO INTERVENE
There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

(a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
(b) The inability to communicate with responding units.
Off-Duty Law Enforcement Actions

(c) The lack of equipment, such as handcuffs, OC or baton.
(d) The lack of cover.
(e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
(f) Unfamiliarity with the surroundings.
(g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

386.4.1 INTERVENTION PROCEDURE
If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as a Modesto Police Department officer until acknowledged. Official identification should also be displayed.

386.4.2 INCIDENTS OF PERSONAL INTEREST
Officers should refrain from handling incidents of personal interest in an official capacity, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

386.4.3 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.

386.5 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, keeping the officer’s rights in mind.

386.6 REVISIONS
Adopted October 1, 2014
• Revised April 1, 2016
Department Use of Social Media

387.1 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, Policy 1057).
- Use of social media in personnel processes (see the Recruitment and Selection Policy, Policy 1000).
- 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, Policy 600).

387.1.1 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

387.2 POLICY
The Modesto 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

387.9 REVISIONS
Adopted October 1, 2014

- Revised June 1, 2019
Gun Violence Restraining Orders

388.1 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).

388.1.1 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).

388.2 POLICY
It is the policy of the Modesto 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.

388.3 GUN VIOLENCE RESTRAINING ORDERS
An officer who reasonably believes a person is a present danger to self or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from the officer's supervisor to petition the court for a gun violence restraining order.

Officers petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types, and locations of any firearms and ammunition that the officer believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an officer may submit the petition electronically or orally request a temporary order (Penal Code § 18122; Penal Code § 18140).

388.3.1 DOMESTIC VIOLENCE GVRO CONSIDERATIONS
Officers shall also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

(a) Officers responding to a domestic disturbance where the residence is associated with a firearm registration or record.
Gun Violence Restraining Orders

388.3.2 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 any call or incident when a firearm is present or when one of the involved parties owns or possesses a firearm.

(b) 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).

388.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS
An officer serving any gun violence restraining order shall:

(a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).

(b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).

(c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).

(d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).

(e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115). This is accomplished by submitting the form to Records.

(f) As soon as practicable, but by the end of his/her shift, submit proof of service to Records for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The officer should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

388.4.1 TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDERS
An officer requesting a temporary emergency gun violence restraining order shall (Penal Code § 18140):
Gun Violence Restraining Orders

(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 Police Civilian Supervisor for filing with the court and appropriate databases.

388.5 SEARCH WARRANTS

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the officer should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

(a) The officer serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.

(b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:

1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.

2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.

(c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the officer shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner’s presence.

388.6 POLICE CIVILIAN SUPERVISOR RESPONSIBILITIES

The Police Civilian Supervisor is responsible for ensuring:

(a) Proof of service of any gun violence restraining order served by an officer or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an officer, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).

(b) Temporary orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).

(c) Copies of temporary orders are filed with the court as soon as practicable, but no later than three court days, after issuance (Penal Code § 18140).
**Gun Violence Restraining Orders**

(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).

388.7 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS
Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

(a) Record the individual’s name, address and telephone number.

(b) Record the serial number of the firearm.

(c) Prepare an incident report and property report.

(d) Provide a property receipt to the individual who surrendered the firearms and ammunition.

(e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

388.8 RELEASE OF FIREARMS AND AMMUNITION
Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with Penal Code § 18120 and the Property and Evidence Policy.

388.9 GUN VIOLENCE RESTRAINING ORDER COORDINATOR
The Chief of Police will appoint a gun violence restraining order coordinator. The responsibilities of the coordinator include:

(a) Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by department members, also including procedures for requesting and serving (Penal Code § 18108):

1. A temporary emergency gun violence restraining order.
2. An ex parte gun violence restraining order.
3. A gun violence restraining order issued after notice and hearing.

(b) Developing and maintaining factors to consider when assessing the need to seek an order, including:

1. Whether threats have been made, and if so, whether the threats are credible and specific.
2. Whether the potential victim is within close proximity.
3. Whether the person has expressed suicidal tendencies.
Gun Violence Restraining Orders

4. Whether the person has access to firearms.

5. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored release.

6. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.

7. Any upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.

8. Whether the person has any history of drug or alcohol abuse.

(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 Police Civilian Supervisor for recording in appropriate databases and required notice to the court, as applicable.

3. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate (Penal Code § 18108).

4. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.

5. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order.

(d) Coordinating with the Training Sergeant 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).
Gun Violence Restraining Orders

388.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS
The CIU Lieutenant 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).

388.11 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).

388.12 TRAINING
The Training Sergeant should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

388.13 REVISIONS
Adopted April 1, 2016

- Revised July 1, 2019
- Revised March 1, 2021
- Revised February 1, 2022
Chapter 4 - Patrol Operations
Patrol Function

400.1 POLICY
The Modesto 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.

400.2 PURPOSE AND SCOPE
The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

400.3 INFORMATION SHARING
To the extent feasible, all information relevant to the mission of the Department should be shared among all divisions and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily briefings and to attend briefings of other divisions or specialized units.

Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and divisions.

400.4 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.
Patrol Function

400.5 FUNCTION
Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Modesto. 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.
(j) Officers are encouraged to use Predpol or other department resources to address crime or quality of life issues.

400.6 REVISIONS
Adopted October 1, 2014

- Revised February 1, 2018
Bias-Based Policing

402.1 PURPOSE AND SCOPE
This policy provides guidance to department members that affirms the Modesto 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).

402.1.1 DEFINITIONS
Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

402.2 POLICY
The Modesto 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.

402.3 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.

402.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT
Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

(a) In compiling personal information about a person’s religious belief, practice, affiliation, national origin or ethnicity.

(b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.
402.4 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.

402.4.1 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.

402.4.2 REPORTING TRAFFIC STOPS
Each time an officer makes a traffic stop, the officer shall report any information required in the Traffic Function and Responsibility Policy.

402.4.3 REPORTING OF STOPS
Unless an exception applies under 11 CCR 999.227, an officer conducting a stop of a person shall collect the data elements required by 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple officers conduct a stop, the officer with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the Modesto Police Department is the primary agency, the Modesto 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).

402.5 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 PVRS/ICCS recordings (portable audio/video recordings), MDC (MDC) data and any other available resource used to document contact between officers and the public to ensure compliance with the policy.
Bias-Based Policing

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.
3. Supervisors shall initiate investigations of any actual or alleged violations of this policy.
4. 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.

402.6 ADMINISTRATION
Each year, Internal Affairs 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.

402.7 TRAINING
Training on fair and objective policing and review of this policy should be conducted as directed by the Training Unit.

(a) All sworn members of this department will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.
(b) Pending participation in such POST-approved training and at all times, all members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
(c) Each sworn member of this department who received initial bias-based policing training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

402.8 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE
The Internal Affairs Unit Sergeant and the Police Civilian Supervisor or the authorized designee shall ensure that all data required by the Department of Justice (DOJ) regarding complaints of racial bias against officers is collected and reported annually to DOJ (Penal Code § 13012; Penal Code § 13020).
Bias-Based Policing

402.9 REVISIONS
Adopted October 1, 2014

- Revised July 1, 2016
- Revised January 1, 2017
- Revised December 1, 2017
- Revised April 1, 2020
- Revised August 1, 2020
- Revised January 1, 2022
Patrol Briefing

404.1 PURPOSE AND SCOPE
Briefing provides an opportunity for important exchange between employees and Supervisors, and an opportunity for training. Briefings are conducted at the beginning of the officer’s assigned shift. A supervisor generally will conduct Briefing and any briefing training. Officers may conduct briefing training with supervisor approval.

404.2 PLATOONS
1st Platoon 0600 - 1700 Hours
2nd Platoon 1000 – 2100 Hours
3rd Platoon 1600 – 0300 Hours
4th Platoon 2000 – 0700 Hours

Uniformed personnel will report ready and equipped for service at the beginning of their designated shift. In order to provide ample 24-hour continuous patrol coverage, an overlapping shift schedule will be used.

404.3 BRIEFING
Platoon briefings will be held at the beginning of the shift and platoon sergeants should try to complete the briefings in approximately 30 minutes.

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 daily assignments
(c) Notifying officers of new Policies or changes in Policies
(d) Reviewing recent incidents for training purposes
(e) Providing training on a variety of subjects

404.4 BEAT ASSIGNMENT
Officers shall log on and report directly to their assigned beats no later than 45 minutes after the start of briefing. Officers shall request clearance from dispatch/supervisor to return to the station at a later time to take care of any routine office duties/report writing. On-duty personnel should remain in the field and in-service until 10 minutes before the end of their platoon hour unless cleared by a supervisor to secure at an earlier time.
404.5 RETENTION OF BRIEFING TRAINING RECORDS
Briefing training materials and a curriculum or summary shall be forwarded to the Training Supervisor for inclusion in training records, as appropriate.

404.6 REVISIONS
Adopted October 1, 2014

• Revised April 1, 2016
Crime and Disaster Scene Integrity

406.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidance in handling a major crime or disaster.

406.2 POLICY
It is the policy of the Modesto Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

406.3 SCENE RESPONSIBILITY
The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

406.4 FIRST RESPONDER CONSIDERATIONS
The following list generally describes the first responder’s function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

(a) Broadcast emergency information, including requests for additional assistance and resources.
(b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.
(c) Locate or identify suspects and determine whether dangerous suspects are still within the area.
(d) Provide first aid to injured parties if it can be done safely.
(e) Evacuate the location safely as required or appropriate.
(f) Secure the inner and outer perimeter.
(g) Protect items of apparent evidentiary value.
(h) Surround the secured crime scene with crime scene tape
   1. Yellow tape secures the crime scene
   2. Red tape secures the immediate crime scene area
   3. Green tape is used to designate the media staging area
(i) Identify potential witnesses.
(j) Start a Crime Scene Log noting reason, times and personnel allowed access. Anyone entering a crime scene shall initial IN and OUT at the log and complete a written report.

406.5 SEARCHES
Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

406.5.1 CONSENT
When possible, officers should seek written consent to search from authorized individuals, completing a search warrant waiver form when possible. 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. Officers should attempt to video or audio record waivers or consent.

406.6 EXECUTION OF HEALTH ORDERS
Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

406.7 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
- July 1, 2016
Crisis Response Unit

408.1 PURPOSE AND SCOPE
The Crisis Response Unit (CRU) is comprised of two specialized teams: the Crisis Negotiations Team (CNT) and the Special Weapons and Tactics Team (SWAT). The unit has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary. This policy is written to comply with the guidelines established in the Attorney General’s Commission on Special Weapons and Tactics Report (September 2002) and the POST 2005 SWAT Operational Guidelines and Standardized Training Recommendations (Penal Code § 13514.1).

408.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY
The Policy Manual sections pertaining to the Crisis Response Unit are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to department personnel allowing for appropriate on scene decision making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

408.1.2 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.

408.1.3 CRISIS NEGOTIATIONS TEAM (CNT)
The Crisis Negotiations Team (CNT) is a support unit of the Modesto Police Department. It consists of personnel trained in crisis negotiations, specialized electronic equipment, communications systems, and the Incident Command System. CNT can be utilized whenever the SWAT Team is activated for a mission, when emergency negotiations are required, or when an Incident Command System is required for Critical Incident Management.

408.2 LEVELS OF CAPABILITY/TRAINING

408.2.1 LEVEL I
A level I SWAT team is a basic team capable of providing containment and intervention with critical incidents that exceed the training and resources available to line-level officers. This does not include ad hoc teams of officers that are formed around a specific mission, detail or incident
(e.g. active shooter response). Generally 5% of the basic team's on-duty time should be devoted to training.

408.2.2 LEVEL II
A level II, Intermediate level SWAT team is capable of providing containment and intervention. Additionally, these teams possess tactical capabilities above the Level I teams. These teams may or may not work together on a daily basis, but are intended to respond to incidents as a team. At least 5% of their on-duty time should be devoted to training with supplemental training for tactical capabilities above the Level I team.

Modesto Police Department will maintain Level II capability at a minimum.

408.2.3 LEVEL III
A Level III, Advanced level SWAT team is a SWAT team whose personnel function as a full-time unit. Generally 25% of their on-duty time is devoted to training. Level III teams operate in accordance with contemporary best practices. Such units possess both skills and equipment to utilize tactics beyond the capabilities of Level I and Level II teams.

408.3 POLICY
It shall be the policy of this department to maintain SWAT and CNT teams and to provide the equipment, manpower, and training necessary to maintain SWAT and CNT teams.

The SWAT team should develop sufficient resources and training to perform three basic operational functions:

(a) Command and Control
(b) Containment
(c) Entry/Apprehension/Rescue

The Crisis Negotiations Team should develop sufficient resources and training to perform the following operational functions:

(a) Negotiations
(b) Intelligence
(c) Tactical Liaison
(d) Logistics

It is understood it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential
incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

408.3.1 POLICY CONSIDERATIONS
A needs assessment should be conducted to determine the type and extent of SWAT/CNT missions and operations appropriate to this department. The assessment should consider the team’s capabilities and limitations and should be reviewed annually by the SWAT/CNT Commanders or their designee.

408.3.2 SWAT / CNT ORGANIZATIONAL PROCEDURES
This policy includes CRU organizational procedures which address the following:

(a) Locally identified specific missions the teams are capable of performing.
(b) Team organization and function.
(c) Personnel selection and retention criteria.
(d) Training and required competencies.
(e) Procedures for activation and deployment.
(f) Command and control issues, including a clearly defined command structure.
(g) Multi-agency response.
(h) Out-of-jurisdiction response.

408.3.3 SWAT OPERATIONAL PROCEDURES
This department shall develop a separate written set of operational procedures in accordance with the determination of their level of capability, using sound risk reduction practices. The operational procedures should be patterned after the National Tactical Officers Association and the California Association of Tactical Officers Best Practices. Because such procedures are specific to CRU members and will outline tactical and officer safety issues, they are not included within this policy. The operational procedures should include, at minimum, the following:

(a) Designated personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).
   1. All SWAT team members should have an understanding of operational planning.
   2. SWAT team training should consider planning for both spontaneous and planned events.
   3. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.
(b) Plans for mission briefings conducted prior to an operation, unless circumstances require immediate deployment.
1. When possible, briefings should include the specialized units and supporting resources.

(c) Protocols for a sustained operation should be developed which may include relief, rotation of personnel and augmentation of resources.

(d) A generic checklist to be worked through prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT.

(e) The appropriate role for a trained negotiator.

(f) A standard method of determining whether or not a warrant should be regarded as high-risk.

(g) A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.

(h) Post incident scene management including:
   1. Documentation of the incident.
   2. Transition to investigations and/or other units.
   3. Debriefing after every deployment of the SWAT team.
      (a) After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments, helps to identify training needs, and reinforces sound risk management practices.
      (b) In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
      (c) When appropriate, debriefing should include specialized units and resources.
   (i) Sound risk management analysis.
   (j) Standardization of equipment deployed.

408.4 SWAT TRAINING NEEDS ASSESSMENT
The SWAT/CRU Commander shall conduct an annual SWAT Training needs assessment to ensure that training is conducted within team capabilities, department policy and the training guidelines as established by POST (Penal Code § 13514.1).

408.4.1 INITIAL TRAINING
SWAT team operators and SWAT supervisors/team leaders should not be deployed until successful completion of the POST-certified Basic SWAT Course or its equivalent.
(a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content (topics) meet or exceed department requirements or POST standardized training recommendations.

408.4.2 UPDATED TRAINING
Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

SWAT team operators and SWAT supervisors/team leaders should complete update or refresher training as certified by POST, or its equivalent, every 24 months.

408.4.3 SUPERVISION AND MANAGEMENT TRAINING
Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level to ensure personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the teams.

Command personnel who may assume incident command responsibilities should attend SWAT or Crisis Negotiations Commander course or its equivalent. SWAT command personnel shall attend a POST-certified SWAT commander or tactical commander course, or its equivalent.

408.4.4 SWAT ONGOING TRAINING
Training shall be coordinated by the SWAT Commander. The SWAT Commander may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise in addition to specialized training. Training shall consist of the following:

(a) Each SWAT member shall perform a physical fitness test twice each year. A minimum qualifying score must be attained by each team member.

(b) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest and attain a qualifying score. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.

(c) Those members who are on vacation, ill, or are on light duty status with a doctor’s note of approval on the test date, shall be responsible for reporting to a team supervisor and taking the test as soon as practicable.

(d) Quarterly, each SWAT team member shall perform the mandatory SWAT firearm qualification course. The qualification course shall consist of the SWAT basic firearms qualification. Failure to qualify will require that officer to seek remedial training from a team range master approved by the CRU Commander. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.

(e) Each SWAT team member shall complete the quarterly SWAT qualification course for any specialty weapon issued to, or used by, the team member during SWAT
operations. Failure to qualify will require the team member to seek remedial training from the Range Master who has been approved by the SWAT Commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

408.4.5 TRAINING SAFETY
Use of a designated safety officer should be considered for all tactical training.

408.4.6 SCENARIO BASED TRAINING
SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

408.4.7 TRAINING DOCUMENTATION
Individual and team training shall be documented and records maintained by the Training Unit. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file shall be maintained with documentation and records of all team training.

408.5 UNIFORMS, EQUIPMENT, AND FIREARMS

408.5.1 UNIFORMS
SWAT/CNT teams from this agency should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission.

408.5.2 EQUIPMENT
SWAT/CNT teams from this agency should be adequately equipped to meet the specific mission(s) identified by the agency.

408.5.3 SWAT FIREARMS
Weapons and equipment used by SWAT, the specialized units, and the supporting resources should be agency-issued or approved, including any modifications, additions, or attachments.

408.5.4 OPERATIONAL READINESS INSPECTIONS
The SWAT/CNT Commanders shall appoint team supervisors to perform operational readiness inspections of all unit equipment at least quarterly. The result of the inspection will be forwarded to the SWAT/CNT Commanders in writing. The inspection will include personal equipment issued to members of the unit, operational equipment and equipment maintained or used in CRU vehicles.
408.6 MANAGEMENT/SUPERVISION OF CRISIS RESPONSE UNIT
The Commander of the CRU shall be selected by the Chief of Police upon recommendation of staff.

408.6.1 SWAT / CNT MANAGEMENT
Under the direction of the Crisis Response Unit Commander, the SWAT and Crisis Negotiations Teams will be managed by lieutenants.

408.6.2 TEAM SUPERVISORS
The Crisis Negotiations Team and Special Weapons and Tactics Team will be supervised by sergeants.

The team supervisors shall be selected by the Chief of Police or his/her designee upon specific recommendation by staff and the CRU Commander.

The following represent the supervisor responsibilities for the Crisis Response Unit.

(a) As directed by the CNT Commander, the Crisis Negotiations Team supervisor's primary responsibility is to supervise the operations of the Crisis Negotiations Team which will include deployment, training, first line participation, and other duties.

(b) As directed by the SWAT Commander, the Special Weapons and Tactics Team supervisor's primary responsibility is to supervise the operations of the SWAT Team, which will include deployment, training, first line participation, and other duties.

408.7 CRISIS NEGOTIATIONS TEAM ADMINISTRATIVE PROCEDURES
The Crisis Negotiations Team has been established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the Crisis Negotiations Team.

408.7.1 SELECTION OF PERSONNEL
Interested sworn personnel, who are off probation, shall submit a memorandum to the CNT Commander via Chain of Command. Applicants will then be invited to participate in a testing process which may include an oral interview and scenario. Interested personnel shall be evaluated by the following criteria:

(a) Recognized competence and ability as evidenced by performance.

(b) Demonstrated good judgment and understanding of critical role of negotiator and negotiation process.

(c) Effective communication skills to ensure success as a negotiator.
(d) Special skills, training, or appropriate education as it pertains to the assignment.
(e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions, and training obligations.

The selection panel shall submit a list of successful applicants to staff. Selections will be made by the CRU and CNT Commanders.

408.7.2 TRAINING OF CNT MEMBERS
Those officers selected as members of the Crisis Negotiations Team should attend the Basic Negotiators Course as approved by the Commission on Peace Officer Standards and Training (POST) prior to primary use in an actual crisis situation. Untrained officers may be used in a support or training capacity. Members of CNT should also attend the basic POST ICS courses.

CNT member core competencies will diminish unless addressed with meaningful, recurrent training. Accordingly, CNT members should minimally participate in verifiable quarterly training that addresses core competencies determined by the type and extent of missions and operations identified by policy.

Perishable skills and core competencies include:

(a) Incident management, team roles and responsibilities
(b) Equipment and technical knowledge
(c) Communications skills
   1. Active listening
   2. Tactical communications
   3. Interview and interrogation
(d) Risk assessment/incident evaluation
   1. Behavioral/emotional factors
(e) Homicide/Suicide indicators

Continual evaluation of a team member’s performance and efficiency as it relates to the positive operation of the unit shall be conducted by the team supervisor. Performance and efficiency levels, established by the team supervisor, will be met and maintained by all team members. Any member of the Crisis Negotiations Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the unit.

408.8 SWAT TEAM ADMINISTRATIVE PROCEDURES
The Special Weapons and Tactics (SWAT) Team was established to provide a skilled and trained team which may be deployed during events requiring specialized tactics in such situations as
cases where suspects have taken hostages and/or barricaded themselves as well as prolonged or predictable situations in which persons armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the Special Weapons and Tactics Team.

408.8.1 SELECTION OF PERSONNEL
Interested sworn personnel who are off probation shall submit a memorandum to their appropriate Division Commander, a copy of which will be forwarded to the SWAT Commander and other SWAT supervisors. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at the discretion of the SWAT Commander. The testing process will consist of an oral board, physical agility, SWAT basic handgun qualification, and team evaluation.

(a) Oral board: The oral board will consist of personnel selected by the CRU Commander. Applicants will be evaluated by the following criteria:

1. Recognized competence and ability as evidenced by performance;
2. Demonstrated good judgment and understanding of critical role of SWAT member;
3. Special skills, training, or appropriate education as it pertains to this assignment; and,
4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions, and training obligations.

(b) Physical agility: The physical agility test is designed to determine the physical capabilities of the applicant as it relates to performance of SWAT-related duties. The test and scoring procedure will be established by the SWAT Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position.

(c) SWAT basic handgun qualification: Candidates will be invited to shoot the SWAT Basic Drill for the handgun. Qualification courses will be scored as pass / fail.

(d) Team evaluation: Current team members will evaluate each candidate on his or her field tactical skills, teamwork, ability to work under stress, communication skills, judgment, and any special skills that could benefit the team.

(e) A list of successful applicants shall be submitted to staff, by the Operations Division Commander, for final selection.

408.8.2 TEAM EVALUATION
Continual evaluation of a team member’s performance and efficiency as it relates to the positive operation of the unit shall be conducted by the CRU Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT Team members.
members. Any member of the SWAT Team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

408.9 OPERATION GUIDELINES FOR CRISIS RESPONSE UNIT
The following procedures serve as guidelines for the operational deployment of the Crisis Response Unit. Generally, the Special Weapons and Tactics Team and the Crisis Negotiations Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Crisis Negotiations Team, such as warrant service operations. This shall be at the discretion of the CRU Commander.

408.9.1 ON-SCENE DETERMINATION / ACTIVATION
The supervisor in charge on the scene of a particular event will assess whether the Crisis Response Unit is to respond to the scene. Upon final determination by the Watch Commander, he/she will notify the CRU Commander.

408.9.2 APPROPRIATE SITUATIONS FOR USE OF CRISIS RESPONSE UNIT
The following are examples of incidents which may result in the activation of the Crisis Response Unit:

(a) Barricaded suspects who refuse an order to surrender.
(b) Incidents where hostages are taken.
(c) Cases of suicide threats.
(d) Arrests of dangerous persons.
(e) Any situation that could enhance the ability to preserve life, maintain social order, and ensure the protection of property.

408.9.3 OUTSIDE AGENCY REQUESTS
Requests by field personnel for assistance from outside agency crisis units must be approved by the Watch Commander. Deployment of the Modesto Police Department Crisis Response Unit in response to requests by other agencies must be authorized by the CRU Commander.

408.9.4 MULTI-JURISDICTIONAL SWAT/CNT OPERATIONS
The SWAT/CNT teams, including relevant specialized units and supporting resources, should develop protocols, agreements, MOU's, or working relationships to support multi-jurisdictional or regional responses.

(a) If it is anticipated that multi-jurisdictional SWAT/CNT operations will regularly be conducted; SWAT multi-agency and multi-disciplinary joint training exercises are encouraged.
(b) Members of the Modesto Police Department SWAT/CNT teams shall operate under the policies, procedures and command of the Modesto Police Department when working in a multi-agency situation.
408.9.5 MOBILIZATION OF CRISIS RESPONSE UNIT
The On-Scene supervisor shall make a request to the Watch Commander for the Crisis Response Unit. The Watch Commander shall then notify the CRU Commander. If unavailable, the SWAT or CNT Lieutenant shall be notified. A current mobilization list shall be maintained in the Watch Commander's office by the CRU Commander.

The Watch Commander should advise the CRU Commander with as much of the following information which is available at the time:

(a) The number of suspects, known weapons and resources.
(b) If the suspect is in control of hostages.
(c) If the suspect is barricaded.
(d) The type of crime involved.
(e) If the suspect has threatened or attempted suicide.
(f) The location of the command post and a safe approach to it.
(g) The extent of any perimeter and the number of officers involved.
(h) Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

The CRU Commander, CNT Lieutenant or the SWAT Lieutenant shall then call selected officers to respond.

408.9.6 FIELD UNIT RESPONSIBILITIES
While waiting for the Crisis Response Unit, 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 CRU has arrived, all negotiations should generally be halted to allow the negotiators and SWAT time to set up.
Crisis Response Unit

(f) Be prepared to brief the CRU Commander on the situation.

(g) Plan for, and stage, anticipated resources.

408.9.7 ON-SCENE COMMAND RESPONSIBILITIES
Upon arrival of the Crisis Response Unit at the scene, the Incident Commander shall brief the CRU Command staff about the situation. Upon review, it will be the Incident Commander's decision, with input from the CRU Commander, whether to deploy the Crisis Response Unit. Once the Incident Commander authorizes deployment, the SWAT Commander will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security, and support for the Crisis Response Unit. The Incident Commander and the CRU Commander (or his or her designee) shall maintain communications at all times.

408.9.8 COMMUNICATION WITH CRISIS RESPONSE UNIT PERSONNEL
All of those persons who are non-Crisis Response Unit personnel should refrain from any non-emergency contact or interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with CRU personnel directly. All non-emergency communications shall be channeled through the Crisis Negotiations Team Sergeant or his or her designee.

408.9.9 AFTER ACTION REPORT
The CRU Commander shall complete an after action report, per incident, detailing the critical aspects of the operation. The after action report shall also include the following information:

(a) Personnel time used

(b) Recommendations for procurement of additional resources

(c) Expenses, to include date, type of expense and receipts

(d) Injuries and liability issues

408.10 REVISIONS
Adopted October 1, 2014

- Revised February 1, 2020
Ride-Along Policy

410.1 PURPOSE AND SCOPE
The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Ride-Along Program.

410.1.1 ELIGIBILITY
The Modesto 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:

- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Staffing levels
- Denial by any supervisor

Approval for any civilian rider under the age of 16 must be obtained from the Division Commander of the officer, unit, or platoon accommodating the ride-along.

410.2 PROCEDURE TO REQUEST A RIDE-ALONG
Generally, ride-along requests will be scheduled by the Patrol Administrative Assistant. The participants, or the requesting employee on behalf of the participant will complete a "Ride Along Request Form" and/or the "Release of Liability" and articulate the reason(s) for the rider's participation. 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 complete the "Release of Liability" form.

The Patrol Administrative Assistant will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective Watch Commander as soon as possible for his/her scheduling considerations.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.
410.2.1 PROGRAM REQUIREMENTS
Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Explorers, Chaplains, Reserves, police applicants, and all others with approval of the Watch Commander.

410.2.2 SUITABLE ATTIRE
Any person approved to ride along is required to be in appropriate casual clothing or professional attire. Sandals, open-toe shoes, tank tops, shorts and ripped or torn blue jeans are not permitted. Hats and ball caps will not be worn in the police vehicle. The Watch Commander or field supervisor may refuse a ride along to anyone not properly dressed.

410.2.3 PEACE OFFICER RIDE-ALONGS
Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty officers without the expressed consent of the Watch Commander. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

410.2.4 RIDE-ALONG CRIMINAL HISTORY CHECK
All Ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the Modesto Police Department) (CLETS Policies, Practices and Procedures Manual § 1.6.1.F.2.).

410.3 OFFICER'S RESPONSIBILITY
The officer shall advise the dispatcher that a ride-along is present in the vehicle before going into service. Officers shall consider the safety of the ride-along at all times. Officers should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The dispatcher will be advised of the situation and as soon as practical have another employee respond to pick up the participant at that location.

410.4 CONTROL OF RIDE-ALONG
The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

(a) The ride-along will follow the directions of the officer
(b) The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any police equipment
(c) The ride-along may terminate the ride at any time and the officer may return the observer to their home or to the station if the ride-along interferes with the performance of the officer’s duties
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(d) Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety.

(e) Officers will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen.

(f) Under no circumstance shall a civilian ride along be permitted to enter a private residence with an officer without the expressed consent of the resident or other authorized person.

(g) Ride-Alongs must agree not to publicly discuss the names of persons involved in police matters. It is essential to sound police practices that statements or evidence gathered during criminal investigations be held confidential. No video, photographic, or recording devices are allowed without permission of the Watch Commander. Note taking is permitted.

410.5 REVISIONS
Adopted October 1, 2014

• Revised August 1, 2016
• Revised January 1, 2017
Hazardous Material Response

412.1 PURPOSE AND SCOPE
Hazardous materials present a potential harm to employees resulting from their exposure. To comply with Title 8, California Code of Regulations, § 5194, the following is to be the policy of the Modesto Police Department.

412.1.1 HAZARDOUS MATERIAL DEFINED
A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

412.2 HAZARDOUS MATERIAL RESPONSE
Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

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

(a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, the D.O.T. Emergency Response Guidebook, driver's manifest or statements from the person transporting).

(b) Notify the Fire Department.

(c) Determine safe distance from the hazardous substance and determine appropriate approach (upwind, uphill, upstream) if approach is deemed possible. Enter and work in areas that can be entered safely with available protective equipment. Establish a field command post.

(d) Provide first-aid for injured parties if it can be done safely and without contamination.

(e) 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.

(f) Notify the Stanislaus County Environmental Resources Department. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).

(g) Notify the Department of Toxic Substances Control. This is mandatory when an officer comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).
Hazardous Material Response

(h) Members of the Stanislaus Drug Enforcement Agency (SDEA) should be notified if the suspected substance is a precursor or product of a clandestine drug lab. Do not touch any device that appears to be part of a clandestine drug lab.

(i) Treat the incident as a crime scene for possible criminal investigation.

412.2.1 PETROLEUM/OIL/LUBRICANT (POL) INCIDENTS
Wash down of POL type hazardous materials at the scene of a traffic accident is not an acceptable method of cleanup. Human exposure to POL materials, or damage to the environment, should be limited only to that which is unavoidable. The officer assigned to an accident involving POLs is in charge of the scene and is responsible for traffic control and notifications.

Method of Clean-up:

At minor spills, tow truck operators are required by contract to spread sand or other absorbent material over the substance and take the material with them. If no traffic hazard exists, it can be left at the scene.

At larger spills, IC and Operations Chief will discuss the cleanup process to be used and an approved hazardous material contractor or city work crews (if no exposure or inhalation problems exist) may respond to spread sand or other absorbent material over the substance. Prior to notification, the IC should determine the amount of the absorbent material needed. Material will be removed by an approved hazardous materials contractor and stored in the appropriate manner.

Stanislaus County Environmental Resources shall be notified by Operations and Maintenance personnel if the POL spill is of a very large nature or cannot be contained (i.e., going into a storm drain). These types of spills will normally be handled as a hazardous material incident, and the preceding procedures should be followed.

412.3 REPORTING EXPOSURE(S)
Department personnel who believe they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee by calling Company Nurse as soon as practical. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the notification.

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 soon as practical, the employee or supervisor shall notify the on-duty Watch Commander of the exposure. It shall be the responsibility of the Watch Commander to notify City Risk Management personnel and, in cases of serious injury, other members of the Modesto Police Department Command Staff.
412.3.1 SUPERVISOR RESPONSIBILITY
When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, department issued safety equipment is available through supervisory personnel. Safety items not maintained by the Modesto Police Department will be obtained through the Fire Department.
Hostage and Barricade Incidents

414.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

414.1.1 DEFINITIONS
Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

(a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.

(b) Unlawfully held against his/her will under threat or actual use of force.

414.2 POLICY
It is the policy of the Modesto Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

414.3 COMMUNICATION
When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

414.3.1 EMERGENCY COMMUNICATIONS
Only an officer who has been designated by the District Attorney or Attorney General may use or authorize the use of an electronic amplifying or recording device to eavesdrop on or record,
or both, oral communication in response to an emergency situation involving a hostage or the barricading of a location, and only when (Penal Code § 633.8(b)):

(a) The officer reasonably determines an emergency situation exists that involves the immediate danger of death or serious physical injury to any person within the meaning of 18 USC § 2518(7)(a)(i),

(b) The officer reasonably determines that the emergency situation requires that eavesdropping on oral communication occur immediately, and

(c) There are grounds upon which an order could be obtained pursuant to 18 USC § 2516(2).

(d) An application for an order approving the eavesdropping and complying with the requirements of Penal Code § 629.50 is made within 48 hours of the beginning of the eavesdropping.

(e) The contents of any oral communications overheard are recorded on tape or other comparable device.

414.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor’s response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

414.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
Hostage and Barricade Incidents

(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.

414.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

(a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.

(b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.

(c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).

(d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.

(e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).

(f) Provide responding emergency personnel with a safe arrival route to the location.

(g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
Hostage and Barricade Incidents

(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.

414.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a Crisis Response Unit (CRU) response if appropriate and apprising the CRU 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 Stanislaus Regional 9-1-1.

(i) Identify a media staging area outside the outer perimeter and have the department Public Information Officer or a designated temporary media representative provide media access in accordance with the Media Relations Policy.

(j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.

(k) Debrief personnel and review documentation as appropriate.

414.6 CRU RESPONSIBILITIES
The Incident Commander will decide, with input from the CRU Commander, whether to deploy the CRU during a hostage or barricade situation. Once the Incident Commander authorizes deployment, the CRU Commander or the authorized designee will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security and evacuation, media access and support for the CRU. The Incident Commander and the CRU Commander or the authorized designee shall maintain communications at all times.

414.7 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.

414.8 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
- Revised September 1, 2019
Response to Bomb Calls

416.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidelines to assist members of the Modesto Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

416.2 POLICY
It is the policy of the Modesto Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

416.3 RECEIPT OF BOMB THREAT
Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Watch Commander is immediately advised and informed of the details. This will enable the Watch Commander to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

416.4 GOVERNMENT FACILITY OR PROPERTY
A bomb threat targeting a government facility may require a different response based on the government agency.

416.4.1 MODESTO POLICE DEPARTMENT FACILITY
If the bomb threat is against the Modesto Police Department facility, the Watch Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

416.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY
If the bomb threat is against a county or municipal facility within the jurisdiction of the Modesto Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Watch Commander deems appropriate.
Response to Bomb Calls

416.4.3  FEDERAL BUILDING OR PROPERTY
If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility’s security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

416.5  PRIVATE FACILITY OR PROPERTY
When a member of this department receives notification of a bomb threat at a location in the City of Modesto, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

(a) The location of the facility.
(b) The nature of the threat.
(c) Whether the type and detonation time of the device is known.
(d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.
(e) Whether the individual is requesting police assistance at the facility.
(f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
   1. No evacuation of personnel and no search for a device.
   2. Search for a device without evacuation of personnel.
   3. Evacuation of personnel without a search for a device.
   4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Watch Commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

416.5.1  ASSISTANCE
The Watch Commander should be notified when police assistance is requested. The Watch Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Watch Commander determine that the Department will assist or control such an incident, he/she will determine:

(a) The appropriate level of assistance.
Response to Bomb Calls

(b) The plan for assistance.
(c) Whether to evacuate and/or search the facility.
(d) Whether to involve facility staff in the search or evacuation of the building.
   1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
   2. The safety of all participants is the paramount concern.
(e) The need for additional resources, including:
   1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

416.6 FOUND DEVICE
When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

(a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
(b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
(c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:
   1. Two-way radios
   2. Cell phones
   3. Other personal communication devices
(d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
(e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
(f) A safe access route should be provided for support personnel and equipment.
(g) Search the area for secondary devices as appropriate and based upon available resources.
(h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
(i) Promptly relay available information to the Watch Commander including:
   1. The time of discovery.
Response to Bomb Calls

2. The exact location of the device.
3. A full description of the device (e.g., size, shape, markings, construction).
4. The anticipated danger zone and perimeter.
5. The areas to be evacuated or cleared.

416.7 EXPLOSION/BOMBING INCIDENTS
When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

416.7.1 CONSIDERATIONS
Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

(a) Assess the scope of the incident, including the number of victims and extent of injuries.
(b) Request additional personnel and resources, as appropriate.
(c) Assist with first aid.
(d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
(e) Assist with the safe evacuation of victims, if possible.
(f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
(g) Preserve evidence.
(h) Establish an outer perimeter and evacuate if necessary.
(i) Identify witnesses.

416.7.2 NOTIFICATIONS
When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Watch Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate
Response to Bomb Calls

416.7.3 CROWD CONTROL
Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

416.7.4 PRESERVATION OF EVIDENCE
As in any other crime scene, steps should immediately be taken to preserve the scene. The Watch Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

416.8 REVISIONS
Adopted October 1, 2014
• Revised April 1, 2016
Mental Illness Commitments

418.1 PURPOSE AND SCOPE
This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

418.2 POLICY
It is the policy of the Modesto Police Department to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

418.3 AUTHORITY
An officer having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, officers are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person’s mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

(a) An individual who is providing or has provided mental health treatment or related support services to the person

(b) A family member

(c) The person subject to the determination or anyone designated by the person

418.3.1 VOLUNTARY EVALUATION
If an officer encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the officers should:

(a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.

(b) If at any point the person changes his/her mind regarding voluntary evaluation, officers should proceed with the 5150 commitment, if appropriate.

(c) Document the circumstances surrounding the individual’s desire to pursue voluntary evaluation and/or admission.

418.4 CONSIDERATIONS AND RESPONSIBILITIES
Any officer handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:
Mental Illness Commitments

(a) Available information that might assist in determining the cause and nature of the person’s action or stated intentions.
(b) Community or neighborhood mediation services.
(c) Conflict resolution and de-escalation techniques.
(d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

Officers should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

418.4.1 SECURING OF PROPERTY

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the officer shall take reasonable precautions to safeguard the individual’s personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The officer taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

418.5 TRANSPORTATION

The Officer shall take the person into protective custody and may do any of the following based on the circumstances:

(a) In cases where the person’s physical condition requires immediate emergency medical care, the person should be transported by ambulance to Doctors Medical Center (DMC) Emergency Room located at 1441 Florida Avenue (209) 576-3883. The person should be admitted to the emergency room and a 5150 W&I hold shall be placed on the person.

(b) In cases where the person’s physical condition requires medical treatment but does not require ambulance transport, the person should be transported to Doctors Medical Center (DMC) Emergency Room located at 1441 Florida Avenue (209) 576-3883. The person should be admitted to the emergency room and a 5150 W&I shall be placed on the person.

(c) In cases where the person’s condition requires physical restraint, the person’s should be transported to Doctors Medical Center (DMC) Emergency Room located at 1441 Florida Avenue (209) 576-3883. The person should be admitted to the emergency room and a 5150 W&I shall be placed on the person.
Mental Illness Commitments

(d) In all cases (except juveniles) where the need for emergency medical care is not needed, the officer should transport the detained person to the Community Emergency Response Team Office (CERT), located at 1904 Richland Avenue in Ceres, (209) 558-4600, which is the designated reception facility for 5150 W&I detainees being placed at Stanislaus County Psychiatric Health Facility (PUFF) and Doctor's Behavioral Health Center for mental health evaluation.

(e) In cases where the person is placed on a 5150 W&I hold and left at any of the listed facilities and there is a pending criminal charge against the person, the officer must complete the “Notification to be provided to law enforcement agency” per 5152.1 and 5152.2 W&I on the 5150 W&I hold. By doing so, the facility can notify law enforcement that the person is ready for pick up to be booked into the county jail.

(f) In all cases, juveniles will be transport to Doctors Medical Center (DMC) Emergency Room located at 1441 Florida Avenue (209) 576-3883. The juvenile should be admitted to the emergency room and a 5150 W&I shall be placed on the juvenile.

418.6 TRANSFER TO APPROPRIATE FACILITY
Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

418.7 DOCUMENTATION
The officer shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for officer involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

Complete the - Inform RMS - 5150 W&I template.

418.7.1 ADVISEMENT
The officer taking a person into custody for evaluation shall advise the person of:

(a) The officer’s name and agency.
Mental Illness Commitments

(b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.

(c) The name of the facility to which the person is being taken.

(d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The officer should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

418.7.2 MENTALLY ILL PERSON CHARGED WITH A CRIME
In addition to the completed Application for 72-Hour Detention for Evaluation and Treatment form, officers shall complete a full police report if there is a potential for criminal charges to be filed.

418.8 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.

418.9 FIREARMS AND OTHER WEAPONS
Whenever a person is taken into custody for a 5150 commitment, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Officers should consider whether it is appropriate and
consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons.

The handling officers shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Officers shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

418.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

(a) Whenever the handling officer has cause to believe that the future return of any confiscated weapon(s) might endanger the person or others, they shall detail those facts and circumstances in a police report. The report shall be forwarded to the Weapons Release Officer who shall be responsible for initiating a petition to the superior court for a hearing in accordance with Welfare and Institutions Code § 8102(b), to determine whether or not the weapon(s) will be returned.

(b) The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon(s) have 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 or her of the right to a hearing on the issue and that he or 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(s).

(c) If no petition is initiated within the above period, the Department shall make the weapon(s) available for return in accordance with subsection (d) below. If the person does not confirm a desire for a hearing within the prescribed 30 days, the Department may file a petition for an order of default.

(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 California Department of Justice which conforms to the provisions of Penal Code § 33865.

(e) In no case in which a firearm or other deadly weapon is not retained as evidence shall the Department be required to retain such firearms 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).
418.10 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.

418.11 REVISIONS
Adopted October 1, 2014

• Revised October 1, 2016
• Revised January 1, 2017
• Revised July 1, 2019
Cite and Release Policy

420.1 PURPOSE AND SCOPE
This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

420.2 POLICY
It is the policy of the Modesto Police Department to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Department’s mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

420.3 RELEASE BY CITATION
Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private persons arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing officer shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

420.3.1 FIELD CITATIONS
In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting officer should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

420.4 NON-RELEASE

420.4.1 DISQUALIFYING OFFENSES
An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

(a) Misdemeanor domestic battery (Penal Code § 243(e)(1))
(b) Felony domestic battery (Penal Code § 273.5)
(c) Serious or violent felonies (Penal Code § 1270.1(a)(1))

(d) Felony intimidation of witnesses and victims (Penal Code § 136.1)

(e) Rape of a spouse (Penal Code § 262)

(f) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)

(g) Stalking (Penal Code § 646.9)

(h) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

420.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Department and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

(a) The person arrested is so intoxicated that he/she could be a danger to him/herself or to others. Release may occur as soon as this condition no longer exists.

(b) The person arrested requires medical examination or medical care or is otherwise unable to care for his/her own safety

1. The Modesto Police Department shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).

(c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.

(d) The person has been cited, arrested, or convicted for theft from a store or vehicle in the previous six months, or there is probable cause to believe the person is guilty of committing organized retail theft, as defined in Penal Code § 490.4(a).

(e) There are one or more outstanding arrest warrants for the person or failures to appear in court on previous misdemeanor citations that have not been resolved (see Misdemeanor Warrants elsewhere in this policy).

(f) The person could not provide satisfactory evidence of personal identification.

1. If a person released on citation does not have satisfactory identification in his/her possession, a right thumbprint or fingerprint should be obtained on the citation form.
Cite and Release Policy

(g) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.

(h) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.

(i) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.

(j) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. An arrest warrant or failure to appear that is currently pending shall constitute reason to believe that the person will not appear. Other reasons may include:

   (a) Previous failure to appear is on record
   (b) The person lacks ties to the area, such as a residence, job, or family
   (c) Unusual circumstances lead the officer responsible for the release of prisoners to conclude that the suspect should be held for further investigation

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Watch Commander for approval and included with the case file in the Records Unit.

420.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released unless any of the following conditions exist:

(a) The misdemeanor cited in the warrant involves violence
(b) The misdemeanor cited in the warrant involves a firearm
(c) The misdemeanor cited in the warrant involves resisting arrest
(d) The misdemeanor cited in the warrant involves giving false information to a peace officer
(e) The person arrested is a danger to him/herself or others due to intoxication or being under the influence of drugs or narcotics
(f) The person requires medical examination or medical care or was otherwise unable to care for his/her own safety
(g) The person has other ineligible charges pending against him/her
(h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person
(i) The person refuses to sign the notice to appear
(j) The person cannot provide satisfactory evidence of personal identification
(k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear

Release under this section shall be done in accordance with the provisions of this policy.

420.6 JUVENILE CITATIONS
Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Modesto City codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to Youth Services for further action including diversion.

420.7 REQUESTING CASE NUMBERS
Traffic situations can be documented on the reverse side of the records copy of the citation. Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an officer from requesting a case number if he/she feels the situation should be documented more thoroughly in a case report.

420.8 REVISIONS
Adopted October 1, 2014

- Revised October 1, 2016
- Revised October 1, 2019
- Revised January 1, 2020
Foreign Diplomatic and Consular Representatives

422.1 PURPOSE AND SCOPE
This policy provides guidelines to ensure that members of the Modesto Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

422.2 POLICY
The Modesto Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

422.3 CLAIMS OF IMMUNITY
If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

(a) Notify a supervisor.
(b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person’s status.
(c) Request the person’s identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
(d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
(e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating “US” as the state.
422.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

(a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.

(b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.

(c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.

1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.

(d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:

1. Diplomatic-level staff of missions to international organizations and recognized family members
2. Diplomatic agents and recognized family members
3. Members of administrative and technical staff of a diplomatic mission and recognized family members
4. Career consular officers, unless the person is the subject of a felony warrant

(e) The following persons may generally be detained and arrested:

1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
2. Support staff of missions to international organizations
3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
4. Honorary consular officers
5. Whenever an officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the officer shall begin the notification process.
422.5 DOCUMENTATION
All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

422.6 DIPLOMATIC IMMUNITY TABLE
Reference table on diplomatic immunity:

<table>
<thead>
<tr>
<th>Category</th>
<th>Arrested or Detained</th>
<th>Enter Residence Subject to Ordinary Procedures</th>
<th>Issued Traffic Citation</th>
<th>Subpoenaed as Witness</th>
<th>Prosecuted</th>
<th>Recognized Family Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diplomatic Agent</td>
<td>No (note (b))</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Same as sponsor (full immunity &amp; inviolability)</td>
</tr>
<tr>
<td>Member of Admin and Tech Staff</td>
<td>No (note (b))</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Same as sponsor (full immunity &amp; inviolability)</td>
</tr>
<tr>
<td>Service Staff</td>
<td>Yes (note (a))</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td></td>
<td>No immunity or inviolability (note (a))</td>
</tr>
<tr>
<td>Career Consul Officer</td>
<td>Yes if for a felony and pursuant to a warrant (note (a))</td>
<td>Yes (note (d))</td>
<td>Yes</td>
<td>No for official acts. Yes otherwise (note (a))</td>
<td>No for official acts. Yes otherwise (note (a))</td>
<td>No immunity or inviolability</td>
</tr>
<tr>
<td>Honorable Consul Officer</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No for official acts Yes otherwise.</td>
<td>No for official acts Yes otherwise.</td>
<td>No immunity or inviolability</td>
</tr>
<tr>
<td>Consulate Employees</td>
<td>Yes (note (a))</td>
<td>Yes</td>
<td>Yes</td>
<td>No for official acts Yes otherwise.</td>
<td>No for official acts Yes otherwise.</td>
<td>No immunity or inviolability (note (a))</td>
</tr>
<tr>
<td>Int’l Org Staff (note (b))</td>
<td>Yes (note (c))</td>
<td>Yes (note (c))</td>
<td>Yes</td>
<td>Yes (note (c))</td>
<td>No for official acts Yes otherwise.</td>
<td>No immunity or inviolability</td>
</tr>
</tbody>
</table>
### Foreign Diplomatic and Consular Representatives

<table>
<thead>
<tr>
<th>Diplomatic-Level Staff of Missions to Int’l Org</th>
<th>No (note (b))</th>
<th>No</th>
<th>Yes</th>
<th>No</th>
<th>No</th>
<th>Same as sponsor (full immunity &amp; inviolability)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Support Staff of Missions to Int’l Orgs</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No for official acts Yes otherwise</td>
<td>No immunity or inviolability</td>
</tr>
</tbody>
</table>

Notes for diplomatic immunity table:

(a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.

(b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.

(c) A small number of senior officers are entitled to be treated identically to diplomatic agents.

(d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

### 422.7 DEATH OF FOREIGN NATIONAL
During the course of any death investigation involving a foreign national, the investigating officer shall notify the deputy coroner that the deceased is a foreign national, and the coroner’s office will make the necessary notifications.

### 422.8 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
Rapid Response and Deployment

424.1 PURPOSE AND SCOPE
Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding officers in situations that call for rapid response and deployment.

424.2 POLICY
The Modesto Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

424.3 CONSIDERATIONS
When dealing with a crisis situation members should:

(a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.

(b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.

(c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.

(d) Attempt, if feasible and based upon the suspect’s actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

424.4 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:
(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).

424.5 PLANNING
The Operations Division Commander 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.

(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.
424.6 TRAINING
The Training Supervisor 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.
   1. 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).

424.7 REVISIONS
Adopted October 1, 2014

• Revised February 1, 2017
Immigration Violations

428.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidelines to members of the Modesto Police Department relating to immigration and interacting with federal immigration officials.

428.1.1 DEFINITIONS
The following definitions apply to this policy (Government Code § 7284.4):

**Criminal immigration violation** - Any federal criminal immigration violation that penalizes a person’s presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

**Immigration enforcement** - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

**Judicial warrant** - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

428.2 POLICY
It is the policy of the Modesto Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

428.3 VICTIMS AND WITNESSES
To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity, or national origin in any way that would violate the United States or California constitutions.

428.4 IMMIGRATION INQUIRIES PROHIBITED
Officers shall not inquire into an individual’s immigration status for immigration enforcement purposes (Government Code § 7284.6).

428.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)
Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).
Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual’s record (Government Code § 15160).

428.5 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).

428.5.1 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.

428.6 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.).

428.7 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):
Immigration Violations

(a) Sending information to, or requesting or receiving such information from federal immigration officials
(b) Maintaining such information in department records
(c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

428.7.1 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.

428.7.2 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 Modesto Police Department intends to comply with the request (Government Code § 7283.1).

If the Modesto Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

428.7.3 ICE INTERVIEWS
Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Modesto Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her
Immigration Violations

attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

428.7.4 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.

428.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE
The N/A 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 Police Civilian Supervisor for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Unit Policy).

428.8 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 Investigative Services Division supervisor assigned to oversee the handling of any related case. The Investigative Services Division supervisor should:

(a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.

(b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.

(c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.

2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). Form I-914 Supplement
Immigration Violations

B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).

(d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

(e) Inform the victim liaison of any requests and their status.

428.8.1 TIME FRAMES FOR COMPLETION
Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

428.8.2 REPORTING TO LEGISLATURE
The Investigative Services Division 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).

Submit printed report to Secretary of the Senate: State Capital Room 3044, Sacramento, CA 95814

Electronic copy to the Chief Clerk of the Assembly

Electronic or printed copy to the Legislative Counsel: 925 L Street, Suite 900, Sacramento, CA 95814

428.8.3 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).

428.9 TRAINING
The Training Sergeant should ensure that all appropriate members receive training on immigration issues.

Training should include:

(a) Identifying civil versus criminal immigration violations.
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.).

428.10 REVISIONS
Adopted October 1, 2014

- Revised October 1, 2016
- Revised February 1, 2017
- Revised August 1, 2017
- Revised March 1, 2018
- Revised May 1, 2018
- Revised June 1, 2018
- Revised June 1, 2019
- Revised July 1, 2019
- Revised February 1, 2020
- Revised September 1, 2020
Emergency Utility Service

430.1 PURPOSE AND SCOPE
The City Public Works Department, Modesto Irrigation District and PG&E have personnel available to handle emergency calls 24 hours per day. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

430.1.1 ELECTRICAL LINES
When a power line poses a hazard, an officer should be dispatched to protect against personal injury or property damage that might be caused by power lines. Dispatch should be promptly notified. Dispatch will notify Modesto Irrigation District, Public Works or PG&E as appropriate.

430.1.2 CANALS, PUMPS, WATER MAINS, ETC.
Modesto Irrigation District or Public Works maintain the canals and public water equipment, as well as several underpass and other street drainage pumps. In the event of flooding or equipment malfunctions, emergency personnel should be contacted as soon as possible.

430.1.3 EMERGENCY NUMBERS
A current list of emergency personnel who are to be called for municipal utility emergencies is maintained by Stanislaus Regional 9-1-1.

430.2 TRAFFIC CONTROL DEVICE
Notify Dispatch immediately with the location of any damaged or malfunctioning Traffic Control Device. Officers will replace the sign or install a temporary pedestal stand or, if necessary, shall provide control until the condition has been corrected.

430.2.1 OFFICER'S RESPONSIBILITY
Upon observing a damaged or malfunctioning traffic control device, the officer will advise Dispatch of the location and problem with the traffic control device and request notification to the proper agency.

If damaged, officers will prepare a report detailing the type of damage to the traffic control device, how the damage occurred, if known, and the disposition of the damaged property. Route a copy of the report to Traffic Engineering/Public Works Department, City of Modesto.
Aircraft Accidents

434.1 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.

434.1.1 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.

434.2 POLICY
It is the policy of the Modesto Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

434.3 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).

434.4 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.
434.5 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)

434.6 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.

434.7 DANGEROUS MATERIALS
Members should be aware of potentially dangerous materials that might be present. These may
include, but are not limited to:

(a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other
ordnance.
(b) Pressure vessels, compressed gas bottles, accumulators and tires.
Aircraft Accidents

(c) Fluids, batteries, flares and igniters.
(d) Evacuation chutes, ballistic parachute systems and composite materials.

434.8 DOCUMENTATION
All aircraft accidents occurring within the City of Modesto 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 Modesto PD 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.

434.8.1 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.

434.8.2 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.

434.9 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.

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.

434.10 REFER TO PROCEDURE PR 423 FOR AIRPORT EMERGENCIES

434.11 REVISIONS
Adopted October 1, 2014

• Revised June 1, 2017
Field Training Officer Program

436.1 PURPOSE AND SCOPE

The Field Training Officer Program is intended to provide a standardized program to facilitate the officer’s transition from the academic setting to the actual performance of general law enforcement duties of the Modesto Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment, and possessing all skills needed to operate in a safe, productive, and professional manner.

436.2 FIELD TRAINING OFFICER - SELECTION AND TRAINING

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training, and evaluating entry level and lateral police officers in the application of their previously acquired knowledge and skills.

436.2.1 SELECTION PROCESS

FTOs will be selected based on the following requirements:

(a) Desire to be an FTO
(b) Minimum of two years of patrol experience, one of which shall be with this department
(c) Demonstrated ability as a positive role model
(d) May include participation and passing an internal oral interview selection process
(e) Evaluation by supervisors and current FTOs
(f) Possess a POST Basic certificate

436.2.2 TRAINING

An officer selected as a Field Training Officer shall successfully complete a POST certified (40-hour) Field Training Officer’s Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position of FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.
436.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR

The FTO Program supervisor should be selected from the rank of sergeant or above by the Operations Division Commander or a designee and should possess, or be eligible to receive, a POST Supervisory Certificate.

The responsibilities of the FTO Program supervisor include the following:

(a) Assignment of trainees to FTOs
(b) Conduct FTO meetings
(c) Maintain and ensure FTO/trainee performance evaluations are completed
(d) Maintain, update, and issue the Field Training Manual to each trainee
(e) Monitor individual FTO performance
(f) Monitor overall FTO Program
(g) Maintain liaison with FTO coordinators of other agencies
(h) Maintain liaison with academy staff on recruit performance during the academy
(i) Develop ongoing training for FTOs

The FTO Program supervisor will be required to successfully complete a POST-approved Field Training Administrator’s Course within one year of appointment to this position (11 CCR 1004(c)).

436.4 TRAINEE DEFINED

Any entry level or lateral police officer newly appointed to the Modesto Police Department who has successfully completed a POST approved Basic Academy.

436.5 REQUIRED TRAINING

Entry level officers shall be required to successfully complete the Field Training Program, consisting of a minimum of 10 weeks (11 CCR 1004; 11 CCR 1005).

The training period for a lateral officer may be modified depending on the trainee’s demonstrated performance and level of experience. A lateral officer may be exempt from the Field Training Program requirement if the officer qualifies for an exemption as provided in 11 CCR 1005(a)(B).

To the extent practicable, entry level and lateral officers should be assigned to a variety of Field Training Officers, shifts, and geographical areas during their Field Training Program.

436.5.1 FIELD TRAINING MANUAL

Each new officer will be issued a Field Training Manual at the beginning of his/her Primary Training Phase. This manual is an outline of the subject matter and/or skills necessary to properly function as an officer with the Modesto 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.
Field Training Officer Program

The Field Training Manual will specifically cover those policies, procedures, rules, and regulations adopted by the Modesto Police Department.

436.6 EVALUATIONS
Evaluations are an important component of the training process and shall be completed as outlined below.

436.6.1 FIELD TRAINING OFFICER
The FTO will be responsible for the following:

(a) Complete and submit a written evaluation on the performance of his/her assigned trainee to the FTO Coordinator on a daily basis.

(b) Review the Daily Observation Reports with the trainee each day.

(c) Complete a detailed end-of-phase performance evaluation on his/her assigned trainee at the end of each phase of training.

(d) Sign off all completed topics contained in the Field Training Manual, noting the method(s) of learning and evaluating the performance of his/her assigned trainee.

436.6.2 IMMEDIATE SUPERVISOR
The immediate supervisor shall review and approve the Daily Observation Reports and forward them to the Field Training Administrator.

436.6.3 FIELD TRAINING ADMINISTRATOR
The Field Training Administrator will review and approve the Daily Observation Reports submitted by the FTO through his/her immediate supervisor.

436.6.4 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.

436.7 DOCUMENTATION
All documentation of the Field Training Program will be retained in the officer’s training files and will consist of the following:

(a) Daily Observation Reports

(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

436.8 REVISIONS
Adopted October 1, 2014

• Revised April 1, 2016
Field Training Officer Program

- Revised January 1, 2018
- Revised February 1, 2019
- Revised April 1, 2019
Obtaining Air Support

438.1 PURPOSE AND SCOPE
The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request. It also defines the mission and responsibilities of the Air Support Unit which is staffed by members of the Stanislaus County Sheriff's Department and the Modesto Police Department.

438.1.1 MISSION
The Modesto Police Department will work with the Stanislaus County Sheriff’s Department in a collaborative effort to meet the mission and goals of the Air Support Unit.

The Mission of the Stanislaus County Sheriff’s Department Air Support Unit (ASU) is to provide search and rescue operations, aerial support for patrol and investigators, and administrative needs.

The goal of the Air Support Unit is to enhance the safety of the community and police personnel through the strategic deployment of airborne technologies. The unit strives to increase the safety of officers, as well as improve effectiveness and efficiency through the timely use of properly equipped helicopters and fixed-wing aircraft.

438.2 REQUEST FOR AIR SUPPORT ASSISTANCE
If a supervisor or officer in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made. After consideration and approval of the request for a helicopter, the Watch Commander, or his/her designee, will ask dispatch to contact the Air Support Unit and advise them of the details of the incident prompting the request. If the Air Support Unit is unavailable, the Watch Commander may request the assistance of a helicopter from another agency, such as CHP.

438.2.1 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED
The ASU 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.

438.3 RESPONSIBILITIES OF MPD TACTICAL FLIGHT OFFICERS (TFO)

- Log on with dispatch
- Pre-flight check of equipment to be used during flight, and assist pilot with pre-flight aircraft inspection
- Ensure any and all passengers have had a safety briefing and are secure in the aircraft prior to take off and that they remain in the aircraft until it is safe to exit
- Operate the radios, FLIR, spotlight and other equipment as directed by the pilot
- Navigate during flight
- Assist ground units by setting perimeters, calling pursuits or directing ground units based on hazards that are visible from the air
- Assist with aircraft fueling and storing
- Complete post-flight inspections and reports
- Book any evidence and complete any police reports or supplemental police reports when court testimony may be necessary
- Log any maintenance requests on the flight board
- Other duties that are deemed necessary to ensure a safe mission and the continued success of the Air Support Unit

438.3.1 CHAIN OF COMMAND

Tactical Flight Officers (TFO) employed by Modesto Police Department should report directly to the Modesto Police Department Supervisor assigned to the Air Support Unit.

(a) The ASU Lieutenant will report to the Operations Division Captain

(b) The ASU Supervisor will work with the Stanislaus County Sheriff’s Department Supervisor assigned to the Air Support Unit to ensure the day-to-day operations are successful

(c) The ASU Supervisor will schedule TFO’s and coordinate patrol flights, callouts, surveillance flights, special flights (SDEA, CAMP, or grant) and training

(d) When TFO’s are assigned to Air Operations they will fall under the supervision of the ASU Supervisor or the on-duty watch commander

(e) The ASU Supervisor will enter TFO schedules into inTime

438.3.2 OPERATIONAL GUIDELINES

The Air Support Unit will adhere to the Stanislaus County Sheriff’s Department Air Support Unit Manual.
Obtaining Air Support

(a) TFO’s shall wear all safety equipment required by the Sheriff’s Department and the Modesto Police Department

(b) The Air Support Unit will normally conduct in-house training one day per month

(c) TFO’s may be grounded if required training is not met

(d) Every effort should be made to avoid overtime. On occasion overtime may be necessary; however, this should be the exception

In the event of a callout, the TFO will be contacted by an ASU Supervisor, pilot, or an on-duty MPD supervisor or watch commander. If notification is made by a pilot or Sheriff’s ASU Supervisor, the TFO will notify the MPD ASU Supervisor as soon as possible.

438.4 REVISIONS
Adopted October 1, 2014

• Revised July 1, 2018
Contacts and Temporary Detentions

440.1 PURPOSE AND SCOPE
The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

440.1.1 DEFINITIONS
Definitions related to this policy include:

Consensual encounter - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary.

Field interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person’s freedom of movement.

440.2 POLICY
The Modesto 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.
Contacts and Temporary Detentions

440.3 FIELD INTERVIEWS
Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer’s suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Modesto Police Department to strengthen community involvement, community awareness, and problem identification.

440.3.1 INITIATING A FIELD INTERVIEW
When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual’s:

(a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
(b) Actions suggesting that he/she is engaged in a criminal activity
(c) Presence in an area at an inappropriate hour of the day or night
(d) Presence in a particular area is suspicious
(e) Carrying of suspicious objects or items
(f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
(g) Location in proximate time and place to an alleged crime
(h) Physical description or clothing worn that matches a suspect in a recent crime
(i) Prior criminal record or involvement in criminal activity as known by the officer

440.4 PAT-DOWN SEARCHES
Once a valid stop has been made, and consistent with the officer’s training and experience, an officer may pat a suspect’s outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
(b) Where more than one suspect must be handled by a single officer.
(c) The hour of the day and the location or neighborhood where the stop takes place.
(d) Prior knowledge of the suspect’s use of force and/or propensity to carry weapons.
(e) The actions and demeanor of the suspect.
Contacts and Temporary Detentions

(f) Visual indications which suggest that the suspect is carrying a firearm or other weapon. Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

440.5 FIELD PHOTOGRAPHS
Before photographing any field detainee, the officer shall carefully consider, among other things, the factors listed below.

440.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT
Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the officer should record the consent using their body worn camera.

440.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT
Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

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 retained in compliance with related Modesto Police Department Policies and Procedures.

440.5.3 DISPOSITION OF PHOTOGRAPHS
All detainee photographs must be adequately labeled and submitted 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.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

440.5.4 SUPERVISOR RESPONSIBILITIES
While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.
440.6 PURGING THE FIELD PHOTO FILE
Access to the FI photo file shall be strictly limited to law enforcement purposes and retained per Modesto Policy Department retention policy.

440.7 PHOTO REVIEW PROCESS
Upon receipt of such a written request, the Chief of Police or his or her designee will permit the individual to appear in person (any minor must be accompanied by their parent or legal guardian) for review of the status of the photograph/FI.

Such a meeting will generally be scheduled during regular business hours within 30 days of the receipt of the written request. An extension of the 30-day limit may be made either upon the mutual convenience of the parties or if, at the discretion of the Chief of Police, there appears to be an ongoing legitimate law enforcement interest which warrants a delay. If the delay could jeopardize an ongoing investigation, nothing in this policy shall require the Chief of Police to disclose the reason(s) for the delay.

A meeting for the review of the status of any non-arrest photograph/FI is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the Chief of Police or his/her designee to discuss the matter.

After carefully considering the information available, the Chief of Police or designee will determine, generally within 30 days of the original meeting, whether the photograph/FI was obtained in accordance with existing law and Modesto Police Department policy and, even if properly obtained, then whether there is any ongoing legitimate law enforcement interest in retaining the photograph/FI.

If the Chief of Police or his/her designee determine that the photograph/FI was obtained in accordance with existing law and department policy and that there is an ongoing legitimate law enforcement interest in retaining the non-arrest photograph, the photograph/FI shall be retained according to this policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that it was obtained in violation of existing law or Modesto Police Department policy, the original photograph will be destroyed or returned to the person photographed, if requested. All other associated reports or documents, however, will be retained according to department policy and applicable law.

If the Chief of Police or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest FI no longer exists or that the original FI was not obtained in accordance with established law of Modesto Police Department policy, the original FI may only be destroyed upon the execution of a full and complete waiver of liability by the individual (and guardian if a minor) arising out of the field contact.

If the Chief of Police or his/her designee determines that any involved Modesto Police Department personnel violated existing law or department policy, the Chief of Police or designee shall
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initiate a separate internal investigation which may result in additional training, discipline or other appropriate action for the involved employees.

The person photographed/FI'd will be informed in writing within 30 days of the Chief of Police's determination whether or not the photographed/FI will be retained. This does not entitle any person to any discovery or access to any law enforcement records not otherwise authorized by law.

440.8 REVISIONS
Adopted October 1, 2014

• Revised June 1, 2019
Criminal Organizations

442.1 PURPOSE AND SCOPE
The purpose of this policy is to ensure that the Modesto Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

442.1.1 DEFINITIONS
Definitions related to this policy include:

Criminal intelligence system - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

442.2 POLICY
The Modesto Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

442.3 CRIMINAL INTELLIGENCE SYSTEMS
No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

(a) Members using any such system are appropriately selected and trained.
(b) Use of every criminal intelligence system is appropriately reviewed and audited.
(c) Any system security issues are reasonably addressed.

442.3.1 SYSTEM ENTRIES
It is the designated supervisor’s responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records Unit.
supporting documentation for an entry shall be retained by the Records Unit in accordance with
the established records retention schedule and for at least as long as the entry is maintained in
the system.

The designated supervisor should ensure that any documents retained by the Records Unit are
appropriately marked as intelligence information. The Police Civilian Supervisor may not purge
such documents without the approval of the designated supervisor.

442.3.2 GANG DATABASES
The Chief of Police may approve participation by the gang unit in a shared criminal gang
intelligence database, such as CALGANG®. Members must obtain the requisite training before
accessing any such database (11 CCR 751.6).

It is the gang unit supervisor’s responsibility to determine whether any report or FI contains
information that would qualify for entry into the database. Prior to designating any person as
a suspected gang member, associate, or affiliate in a shared gang database; or submitting a
document to the Attorney General’s office for the purpose of designating a person in a shared
gang database; or otherwise identifying the person in a shared gang database, the gang unit
supervisor shall provide written notice to the person and, if the person is under the age of 18, to
his/her parent or guardian of the designation and the basis for the designation, unless providing
that notification would compromise an active criminal investigation or compromise the health or
safety of a minor. Notice shall also describe the process to contest the designation (Penal Code
§ 186.34).

The person, an attorney working on his/her behalf, or his/her parent or guardian (if the person is
under 18 years of age) may request, in writing, information as to whether the person is designated
as a suspected gang member, associate, or affiliate in a shared gang database accessible by the
Department, the basis for that designation, and the name of the agency that made the designation.
The Department shall respond to a valid request in writing within 30 days, and shall provide the
information requested unless doing so would compromise an active investigation or compromise
the health and safety of the person if he/she is under 18 years of age (Penal Code § 186.34).

The person, or his/her parent or guardian if the person is under 18 years of age, may contest
the designation by submitting written documentation, which shall be reviewed by the gang unit
supervisor. If it is determined that the person is not a suspected gang member, associate, or
affiliate, the person shall be removed from the database. The person and the parent or guardian
shall be provided written verification of the department’s decision within 30 days of receipt of the
written documentation contesting the designation and shall include the reason for a denial when
applicable (Penal Code § 186.34).

The gang unit supervisor should forward reports or FIs to the Records Unit after appropriate
database entries are made. The supervisor should clearly mark the report/FI as gang intelligence
information.
Criminal Organizations

It is the responsibility of the Records Unit supervisor to retain reports and FIs in compliance with the database rules and any applicable end user agreement.

Records contained in a shared gang database shall not be disclosed for employment or military screening purposes, and shall not be disclosed for the purpose of enforcing federal immigration law unless required by state or federal statute or regulation (Penal Code § 186.36).

442.4 TEMPORARY INFORMATION FILE

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

442.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

(a) Must only be included upon documented authorization of the responsible department supervisor.

(b) Should not be originals that would ordinarily be retained by the Records Unit or Evidence and Property, but should be copies of, or references to, retained documents such as copies of reports, FI forms, Stanislaus Regional 9-1-1 records or booking forms.

(c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.

(d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

442.4.2 FILE REVIEW AND PURGING

Temporary files shall not be retained longer than one year. At the end of one year, temporary files must be purged if the information does not qualify for entry into a department approved criminal gang intelligence database.

The Gang Unit Supervisor shall periodically review temporary files to verify that the information was properly obtained and meets the criteria for retention. Validation and purging of temporary criminal street gang files is the responsibility of the Gang Unit Supervisor or his/her designee.
Criminal Organizations

442.5 INFORMATION RECOGNITION
Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

(a) Gang indicia associated with a person or residence.
(b) Information related to a drug-trafficking operation.
(c) Vandalism indicating an animus for a particular group.
(d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Supervisor to train members to identify information that may be particularly relevant for inclusion.

442.6 RELEASE OF INFORMATION
Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

442.7 CRIMINAL STREET GANGS
The N/A 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.

442.8 TRAINING
The Training Supervisor should arrange training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

(a) The protection of civil liberties.

(b) Participation in a multiagency criminal intelligence system.

(c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.

(d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.

(e) The review and purging of temporary information files.

442.8.1 SHARED GANG DATABASE TRAINING
The Training Sergeant should ensure that members who are authorized users of a shared gang database receive the required training from the California Department of Justice (DOJ) or an instructor certified by the DOJ that includes comprehensive and standardized training on the use of shared gang databases, and any other associated training required by the Department (Penal Code § 186.36; 11 CCR 751.6).

442.9 REVISIONS
Adopted October 1, 2014

- Revised November 1, 2016
- Revised April 1, 2017
- Revised April 1, 2018
- Revised February 1, 2019
- Revised July 1, 2019
- Revised March 1, 2021
Watch Commanders

444.1  RESPONSIBILITIES
There are four Lieutenants assigned as Watch Commanders. They are responsible for the management of an entire platoon of officers whether he or she is present at work or away from the office.

While away from the office, the regularly assigned Watch Commander shall remain in phone or radio contact with the designated Watch Commander if the absence is short in duration.

Daily Patrol Operations are divided into four platoons. Depending on the day of the week each platoon can consist of personnel assigned to “A” Squad, “B” Squad of ”C” Squad. A Lieutenant Watch Commander is responsible for each platoon and a Patrol Sergeant is responsible for each squad. The individual squads number between five and twelve personnel, depending on the time of day.

444.2  DESIGNATION AS ACTING WATCH COMMANDER
When a Lieutenant is unavailable for duty as Watch Commander, in most instances the senior qualified sergeant shall be designated as acting Watch Commander. This policy does not preclude designating a less senior sergeant as an acting Watch Commander when operational needs require or training permits.

The Acting Watch Commander should be instructed to contact the Assistant Division Commander to assist and resolve any operational issues if the absence of the regularly assigned Watch Commander is expected to be extended preventing him/her from handling matters in an expeditious manner.

444.3  COLLATERAL ASSIGNMENTS
The Watch Commander will generally have collateral duties that might include but are not limited to managing specialized units and/or programs, area of command responsibility, and other staff work as assigned. Collateral assignments may include FTO, K9, scheduling, Equestrian, CIT/CRU/MCERT, URO, Range and committees.

444.4  REVISIONS
Adopted October 1, 2014

- Revised May 1, 2019
- Revised November 1, 2018
- Revised June 1, 2019
Area Commanders

446.1 PURPOSE AND SCOPE
The Modesto Police Department recognizes the importance of collaborating with our citizens and community partners to better understand and address specific neighborhood problems and crime trends. To best achieve this collaboration the department has established four area commands (Northeast, Northwest, Central, and South) and assigned two Investigative Services Division Lieutenants to oversee these area commands.

446.2 RESPONSIBILITIES
It is the responsibility of each Area Commander to actively monitor crime in their assigned area command(s) and develop crime reduction strategies through the use of crime data, statistics, intelligence, and relationships with community members.

Area Commanders are expected to work in close collaboration with the Crime and Intelligence Unit (CIU) to analyze and assess information and intelligence in order to develop proactive crime reduction strategies, including evidence-based crime reduction strategies when possible.

Area Commanders directly oversee the Crime Reduction Team (CRT), Crime Prevention Unit (CPU), and Cadets, and will use these resources as part of their crime reduction strategies. Area Commanders are also responsible for continual collaboration and information sharing regarding area commands (crime trends, strategies, directed enforcement request, BOL’s, etc.) throughout all divisions of the organization.

446.3 REVISIONS
Adopted October 1, 2014

- Revised May 1, 2019
In-Car Camera System

447.1 PURPOSE AND SCOPE
The Modesto Police Department has equipped police vehicles with In-Car Camera Systems (ICCS) to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

447.1.1 DEFINITIONS
Definitions related to this policy include:

Activate - Any process that causes the ICCS to transmit or store video or audio data in an active mode.

In-car camera system (ICCS) - Refers to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder and monitor.

Recorded media - Audio-video signals recorded and digitally stored on a storage device or portable media uploaded to an authorized remote server.

447.2 POLICY
It is the policy of the Modesto 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.

447.3 OFFICER RESPONSIBILITIES
Prior to going into service, each officer will properly equip him/herself to record audio and video in the field. This includes ensuring the ICCS is properly turned on and the officers using the vehicle are logged into the ICCS via Axon Dashboard.

At the end of every shift, the officer(s) will properly log out of the ICCS via Axon Dashboard.

If the system is malfunctioning, the officer shall take the vehicle out of service and send a technical support request to the City of Modesto Information Technology help desk via electronic mail. Any exceptions will be at the discretion of supervisor.

447.4 ACTIVATION OF THE ICCS
The ICCS is designed to turn on automatically via the Axon Signal system, or manually by the officer. The system remains on until it is turned off manually.

447.4.1 REQUIRED ACTIVATION OF ICCS
This policy is not intended to describe every possible situation in which the system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes it would be appropriate or valuable to document an incident.
In-Car Camera System

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the ICCS. The ICCS should be activated when practicable in any of the following situations while within video or audio range:

(a) All field contacts involving actual or potential criminal conduct within video or audio range.
(b) All self-initiated activity in which an officer would normally notify Stanislaus Regional 9-1-1.
(c) Code-3 responses.
(d) Transportation of prisoners, suspects, and witnesses.

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. Request by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is not longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate the ICCS. However, the recorder should be activated in situations described above as soon as practicable.

447.4.2 CESSATION OF RECORDING
Once activated, the ICCS should remain on until the incident has concluded. For purposes of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person’s attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

447.4.3 WHEN ACTIVATION IS NOT REQUIRED
Activation of the ICCS is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

447.4.4 SUPERVISOR RESPONSIBILITIES
Supervisors should determine if vehicles with non-functioning ICCS should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made.
At reasonable intervals, supervisors should validate that the ICCS operational procedures are being followed.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the media was uploaded to the evidence server properly. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

### 447.5 REVIEW OF ICCS RECORDINGS

All recorded 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.

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct, reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, criminal investigation or courtroom testimony preparation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the Chief of Police or the authorized designee.

(d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

ICCS recordings may be used for training purposes with supervisor approval. However, in no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

### 447.6 DOCUMENTING ICCS USE

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned, or the member failed to activate their ICCS when required by policy.
447.7 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 officers.
(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 Modesto 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).

447.7.1 RELEASE OF ICCS RECORDINGS
Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

447.8 SYSTEM OPERATIONAL STANDARDS

(a) ICCS vehicle installations should be based on officer safety requirements and the vehicle and device manufacturer’s recommendations.

(b) The ICCS should be configured to minimally record for 30 seconds prior to an event.

(c) The ICCS may not be configured to record audio data occurring prior to activation.

447.9 TRAINING
All members who are authorized to use the ICCS system shall successfully complete an approved course of instruction prior to its use.

447.10 REVISIONS
Adopted October 1, 2014

• Revised: January 1, 2022
Mobile Data Computer Use

448.1 PURPOSE AND SCOPE
The purpose of this policy is to establish guidelines for the proper access, use and application of the MDC (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 Stanislaus Regional 9-1-1.

448.2 POLICY
Modesto 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.

448.3 PRIVACY EXPECTATION
Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

448.4 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 in CAD by a dispatcher.
(c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDC.

448.4.1 USE WHILE DRIVING
Use of the MDC by the vehicle operator should generally be limited to times when the vehicle is stopped. When the vehicle is in motion, the operator should only attempt to read messages that are likely to contain information that is required for immediate enforcement, investigative or safety needs.

Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.
448.4.2 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. Other changes in status can be made on the MDC.

448.4.3 EMERGENCY ACTIVATION
If the emergency button is depressed on the MDC, the dispatcher will call the unit and ask if Code-4. If there is no emergency, then he/she should answer “Code-4” and all units will resume normal activity. If there is no response or the officer answers in some other way, the dispatcher shall proceed as follows:

(a) If the unit is not on a call, send available units to assist in locating the unit transmitting the emergency. Whenever a location is known, immediately dispatch the nearest available unit Code-3.

(b) Notify the field sergeant and Watch Commander of the incident without delay.

Units not responding to the emergency shall refrain from transmitting on the radio until there is a Code-4, unless they are themselves handling an emergency.

448.5 ADMINISTRATIVE DISPATCHING AND TRANSMISSIONS
Only authorized personnel trained in the proper use of the terminals shall have access to the MDC. Authorized access to Viper and the MDCs, is controlled by the Agency CLETS Coordinator or his/her designee. The CLETS Coordinator will communicate the appropriate security/access to the IT Staff at Stanislaus Regional 9-1-1 for configuration.

(a) Officers will use the MDC to log on (by using their assigned security user ID and password) and log off the Viper system.

(b) After each shift change each dispatcher shall determine if any department members have completed their shift but failed to log off. If it appears there are units that have failed to log off, the following procedures will be followed:

1. The dispatcher will attempt to contact the unit via radio and MDC
2. If this meets with negative results, the Communications Supervisor shall notify the Watch Commander and provide the unit’s last known location and activity

(c) The MDCs will be used to log units en route to calls, arriving and clearing from calls, and will be used to enter call dispositions and receive case numbers. Miscellaneous information can be entered into the call notes via the MDC. Information available to the MDC user includes Premise History (Prior calls to the address or location) and Site Information Management System (SIMS) to view officer safety or other notes related to the address or location.

(d) The MDCs are capable of inquiries into CLETS and NCIC; such as DMV, SVS, WPS, etc. Rather than voice transmissions, MDCs should be used for such inquiries in order
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to reduce radio traffic. However, MDC use should not compromise the department’s adherence to maintaining officer safety and “Contact and Cover” procedures. In these cases, voice transmissions are appropriate.

(e) MDCs will be used for non-urgent communications between field units and between field units and dispatchers. These messages should be limited to official business. All Chat and system messages are logged into the database.

(f) Members shall not use profanity, racial, ethnic, religious, or sexual slurs and shall not be rude or disrespectful when sending messages via MDC’s.

(g) Indiscriminate transmissions of test messages will backlog the officer’s and dispatcher’s terminal, burying more important messages and impeding the entire CAD/MDC system. Only messages of operational relevance will be transmitted on MDCs.

(h) All MDC transmissions to Stanislaus Regional 9-1-1 and between Viper users can be monitored and can be reproduced by IT Staff at a later time.

(i) Whenever possible, and officer safety is not compromised, field units shall make their own telephone calls. Likewise, whenever possible, field units shall make their own inquiries into CLETs databases, rather than asking a dispatcher to make the inquiry.

448.6 TACTICAL DISPATCHING AND TRANSMISSIONS

(a) Car stops, subject stops, and on-view activity will be transmitted by voice. In situations when using the radio isn’t practical, the MDC may be used at the officer’s discretion.

(b) All calls will be dispatched via MDC. High priority calls or “hot calls” such as crimes in-progress, impending injury to a citizen or officer, weapon involved, disturbances, gang fights, or calls requiring a back-up officer, will be dispatched simultaneously by voice and MDC. Supplemental information to these types of calls will also be voice dispatched. Exception: The dispatcher will route all alarm calls (C8A and C8S) to the assigned unit and back-up unit via the MDC ONLY. The radio will not be used except to advise the units to check the MDC for a message. Then the dispatcher will put out the call to all MDC’s.

(c) Accidents, hazardous materials incidents, and similar hazard/safety type calls shall also be dispatched by voice to warn other personnel in case they need to avoid the area for safety reasons or may be closer to respond than the dispatched unit.

(d) Priority calls may be dispatched via MDC when directed to do so by the Watch Commander in the event of special circumstances. This practice should be limited to specific tactical situations when the use of voice is not practical because of security considerations or threats to public or officer safety.

(e) The radio system shall be used for all urgent communications or any communications in situations where the MDC is either unavailable or impractical, e.g.; a member is away from the patrol car or at the direction of a supervisor.

(f) Calls normally considered high priority, but are actually not in-progress or are “cold calls” and only require “taking a report,” may at the dispatcher’s discretion, be dispatched by MDC rather than voice.
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(g) All BOLs that are FELONY or Officer Safety in nature shall be voice-dispatched by the dispatcher in addition to being sent via MDC. Misdemeanor or minor BOLs shall only be sent via MDC, unless the dispatcher or a supervisor feels it should be voice dispatched.

(h) Officers must be careful not to allow their MDC operation to put them in immediate hazard. Use of the MDC should never be permitted to distract or interfere with the operation of a moving vehicle.

448.7 MDC MAINTENANCE
Although the MDCs are designed to withstand extreme conditions, they are electronic equipment and subject to malfunction when their components get wet or are physically abused. Avoid bumping or hitting the MDC. Avoid using it as an armrest or work bench. Avoid dropping foreign objects or spilling liquids into the MDC.

When department personnel become aware that an MDC is inoperative or in need of repair, they shall complete and submit a Vehicle Deficiency Report and/or a Damaged Equipment Report. If another MDC equipped car is available it should be used.

Numerous software programs are installed on the MDCs. Issues related to all software, should be directed to the IT staff via a Vehicle Deficiency Report or via standard help desk notification methods.

448.8 BOMB CALLS
When investigating reports of possible bombs, officers should not communicate on their MDCs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDC may cause some devices to detonate.

448.9 REVISIONS
Adopted October 1, 2014
- Revised April 1, 2016
- Revised July 1, 2016
Policy 450

Modesto Police Department
Modesto PD Policy Manual

Portable Audio/Video Recorders

450.1 PURPOSE AND SCOPE
This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Modesto Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

450.2 POLICY
The Modesto Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

450.3 MEMBER PRIVACY EXPECTATION
All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity for this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

450.4 COORDINATOR
The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

(a) Establishing a system for downloading, storing and security of recordings.

(b) Designating persons responsible for downloading recorded data.

(c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.

(d) Establishing a system for tagging and categorizing data according to the type of incident captured.

(e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.

(f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.

(g) Maintaining logs of access and deletions of recordings.
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450.5 MEMBER RESPONSIBILITIES
Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned member shall record his/her name, Modesto PD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user’s unique identification and the date and time of each recording.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned, or the member failed to activate their issued camera when required by policy. Members are required to log any PVRS equipment failures on the PVRS Exception Log located in the Watch Commander’s Office, after reporting the malfunction to a supervisor.

450.5.1 SUPERVISOR RESPONSIBILITIES
Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

450.6 ACTIVATION OF THE PORTABLE RECORDER
This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated prior to the contact or initiation of the following:

(a) All enforcement and investigative contacts including stops and field interview (FI) situations
(b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
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(c) Self-initiated activity in which a member would normally notify Stanislaus Regional 9-1-1
(d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
(e) Code-3 responses
(f) The collection of evidence
(g) While manipulating, examining, or taking possession of (even temporarily) the property of another
(h) Transportation of prisoners, suspects, and witnesses

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

450.6.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER
Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

450.6.2 CESSATION OF RECORDING
Once activated, the portable recorder should remain on continuously until the member's 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).

450.6.3 EXPLOSIVE DEVICE
Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.
450.7 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

450.7.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

450.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report. Transfers should occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

It is recognized members assigned to the Traffic Unit make enforcement stops to and from work and are therefore authorized to take assigned portable recorders home. Portable recorders should be docked daily during their assigned shift.

450.9 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 Modesto 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).

450.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

450.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member’s performance.

Recorded files may also be reviewed:

(a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation, criminal investigation or courtroom testimony preparation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the Chief of Police or the authorized designee.

(d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person’s privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

450.11 REVISIONS

Adopted October 1, 2014

- Revised April 1, 2016
- Revised April 1, 2017
Portable Audio/Video Recorders

• Revised December 1, 2018
• Revised January 1, 2020
Medical Marijuana

452.1 PURPOSE AND SCOPE
The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California’s medical marijuana laws.

452.1.1 DEFINITIONS
Definitions related to this policy include:

Cardholder - A person issued a current identification card.

Compassionate Use Act (CUA) (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

Identification card - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

Medical marijuana - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

Medical Marijuana Program (MMP) (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

Patient - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

Primary caregiver - A person designated by the patient, who has consistently assumed responsibility for the patient’s housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

Statutory amount - No more than 8 ounces of dried, mature, processed female marijuana flowers (“bud”) or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).
452.2 POLICY
It is the policy of the Modesto 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 Modesto Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

452.3 INVESTIGATION
Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

(a) Investigations when no person makes a medicinal claim.
(b) Investigations when a medicinal claim is made by a cardholder.
(c) Investigations when a medicinal claim is made by a non-cardholder.

452.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM
In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the officer should proceed with a criminal investigation if the amount is greater than permitted for personal use under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1; Health and Safety Code § 11362.2). A medicinal defense may be raised at any time, so officers should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

452.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER
A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

(a) The information contained in the card is false or falsified.
(b) The card has been obtained or used by means of fraud.
(c) The person is otherwise in violation of the provisions of the MMP.
(d) The person possesses marijuana but not for personal medical purposes.
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Officers who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient’s medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

452.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER
No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the officer reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient’s current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Officers are not obligated to accept a person’s claim of having a physician’s recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person’s medical-use claim.

Officers should review any available written documentation for validity and whether it contains the recommending physician’s name, telephone number, address and medical license number for verification.

Officers should generally accept verified recommendations by a physician that statutory amounts do not meet the patient’s needs (Health and Safety Code § 11362.77).

452.3.4 ADDITIONAL CONSIDERATIONS
Officers should consider the following when investigating an incident involving marijuana possession, delivery, production or use:

(a) Because enforcement of medical marijuana laws can be complex, time consuming and call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:

1. The suspect has been identified and can be easily located at a later time.
2. The case would benefit from review by a person with expertise in medical marijuana investigations.
3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
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4. Other relevant factors, such as available department resources and time constraints prohibit making an immediate arrest.

(b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, officers should consider the following when determining whether the form and amount is reasonably related to the patient’s needs:

1. The amount of marijuana recommended by a medical professional to be ingested.
2. The quality of the marijuana.
3. The method of ingestion (e.g., smoking, eating, nebulizer).
4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
5. Whether the marijuana is being cultivated indoors or outdoors, the climate, etc.

(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 are provided a defense under the MMP (Health and Safety Code § 11362.775; Business and Professions Code § 26032).

(d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

452.3.5 EXCEPTIONS
This policy does not apply to, and officers should consider taking enforcement action for the following:

(a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).

(b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).

(c) Smoking marijuana (Health and Safety Code § 11362.79):

1. In any place where smoking is prohibited by law.
2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
3. On a school bus.
4. While in a motor vehicle that is being operated.
5. While operating a boat.
(d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

452.3.6 INVESTIGATIONS INVOLVING A STATE LICENSEE
No person issued a state license under the Business and Professions Code shall be arrested or cited for cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution or sale of medical cannabis or a medical cannabis product related to qualifying patients and primary caregivers when conducted lawfully. Whether conduct is lawful may involve questions of license classifications, local ordinances, specific requirements of the Business and Professions Code and adopted regulations. Officers should consider conferring with a supervisor, the applicable state agency or other member with special knowledge in this area and/or appropriate legal counsel before taking enforcement action against a licensee or an employee or agent (Business and Professions Code § 26032).

452.4 FEDERAL LAW ENFORCEMENT
Officers should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

452.5 EVIDENCE AND PROPERTY SUPERVISOR RESPONSIBILITIES
The Evidence and Property 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 Evidence and Property supervisor is not responsible for caring for live marijuana plants. Perishable food items shall not be booked into the Evidence & Property Facility; they shall be photographed, if of evidentiary value.

Upon the prosecutor’s decision to forgo prosecution, or the dismissal of charges or an acquittal, the Evidence and Property 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 Evidence and Property supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Investigations supervisor.

452.6 REVISIONS
Adopted October 1, 2014
- Revised April 1, 2016
- Revised August 1, 2017
- Revised May 1, 2018
Bicycle Patrol Unit

454.1 PURPOSE AND SCOPE
The Modesto Police Department has established the Bicycle Patrol Unit for the purpose of enhancing patrol efforts in the community. Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas and their quiet operation can provide a tactical approach to crimes in progress. The purpose of this policy is to provide guidelines for the safe and effective operation of the patrol bicycle.

454.2 POLICY
Patrol bicycles may be used for regular patrol duty, traffic enforcement, special operations, parking control, or special events. The use of the patrol bicycle will emphasize their mobility and visibility to the community.

Bicycles may be deployed to any area at all hours of the day or night, according to Department needs and as staffing levels allow.

Requests for specific deployment of bicycle patrol officers shall be coordinated through the Bicycle Patrol Unit supervisor or the Watch Commander.

454.3 SELECTION OF PERSONNEL
Bicycle Patrol is a collateral assignment. Interested sworn personnel, who are off probation, shall submit a memorandum of interest to their appropriate Division Commander. A copy will be forwarded to the Bicycle Patrol Unit supervisor. Interested personnel shall be evaluated by the following criteria:

(a) Recognized competence and ability as evidenced by performance.
(b) Special skills or training as it pertains to the assignment.
(c) Good physical condition.
(d) Willingness to perform duties using the bicycle as a mode of transportation.

454.3.1 BICYCLE PATROL UNIT SUPERVISOR
The Bicycle Patrol Unit will be supervised by the Sergeant assigned as the Reserve coordinator. The Bicycle Patrol Unit supervisor or his/her designee shall have responsibility for the following:

(a) Organizing bicycle patrol training.
(b) Inspecting and maintaining inventory of patrol bicycles and program equipment.
(c) Scheduling maintenance and repairs.
(d) Evaluating performance of bicycle officers.
(e) Coordinating activities with the Operations Division.
Bicycle Patrol Unit

(f) Other activities as required to maintain the efficient operation of the Bicycle Patrol Unit.

454.4 TRAINING
Participants in the program must complete an initial 8-hour Department approved bicycle-training course after acceptance into the program. Thereafter bicycle patrol officers should receive annual in-service training to improve skills and refresh safety, health and operational procedures. The initial training shall minimally include the following:

• Bicycle patrol strategies.
• Bicycle safety and accident prevention.
• Operational tactics using bicycles.

454.5 UNIFORMS AND EQUIPMENT
Officers shall wear the department-approved uniform and safety equipment while operating the department bicycle. Safety equipment includes department-approved helmet, riding gloves, protective eyewear and approved footwear.

The bicycle patrol unit uniform consists of the standard short-sleeve uniform shirt or other department-approved shirt with department badge and patches, and department-approved bicycle patrol pants or shorts.

During special or undercover operations, the bicycle patrol officer may wear a modified uniform or undercover attire.

Optional equipment includes a radio head set and microphone, and jackets in colder weather. Turtleneck shirts or sweaters are permitted when worn under the uniform shirt.

Bicycle patrol officers shall carry the same required equipment on the bicycle patrol duty belt as they would on a regular patrol assignment.

Officers will be responsible for obtaining the necessary forms, citation books and other department equipment needed while on bicycle patrol.

454.6 CARE AND USE OF PATROL BICYCLES
Officers will be assigned a specially marked and equipped patrol bicycle, attached gear bag and a battery.

Bicycles utilized for uniformed bicycle patrol shall be primarily black or white in with a "POLICE" decal affixed to each side of the crossbar or the bike's saddlebag. Every such bicycle shall be equipped with front and rear reflectors front lights and a siren/horn satisfying the requirements of Vehicle Code §2800.1(b).

Bicycles utilized for uniformed bicycle patrol shall be equipped with a rear rack and/or saddle bag(s) sufficient to carry all necessary equipment to handle routine patrol calls including report writing, vehicle storage and citations.
Each bicycle gear bag shall include a first aid kit, repair tool, and tire tube. These items are to remain with/on the bicycle at all times.

Each bicycle shall be equipped with a steady or flashing blue warning light that is visible from the front or rear of the bicycle. (Vehicle Code § 21201.3)

Unmarked bicycles may be used for special and undercover operations with approval of the Watch Commander.

Bicycle officers shall conduct an inspection of the bicycle and equipment prior to use to insure proper working order of the equipment. Officers are responsible for the routine care and maintenance of their assigned equipment (e.g., tire pressure, chain lubrication, overall cleaning).

If a needed repair is beyond the ability of the bicycle officer, a repair request form will be completed and forwarded to the program supervisor or his/her designee for repair by an approved technician.

Each bicycle will have scheduled maintenance twice yearly to be performed by a department approved repair shop/technician.

For personnel with an assigned bicycle, the bicycle shall be returned clean and ready for use, at the end of their assignment.

Officers shall not modify the patrol bicycle, remove, modify or add components except with the expressed approval of the bicycle supervisor, or in the event of an emergency.

454.7 OFFICER RESPONSIBILITY

Officers must operate the bicycle in compliance with the vehicle code under normal operation. Officers may operate the bicycle without lighting equipment during hours of darkness when such operation reasonably appears necessary for officer safety and tactical considerations. Officers must use caution and care when operating the bicycle without lighting equipment.

Officers are exempt from the rules of the road under the following conditions (Vehicle Code § 21200(b)(1)):

(a) In response to an emergency call.

(b) While engaged in rescue operations.

(c) In the immediate pursuit of an actual or suspected violator of the law.
Police Response to Burglary and Robbery Alarms

455.1 POLICY
It shall be the policy of the Modesto Police Department to respond to a burglary or robbery alarm as soon as practical after the alarm is reported. However, due to the high number of false burglary/property intrusion alarms, the Modesto Police Department will not routinely respond to residential burglary alarms, or commercial burglary alarms during normal business hours, unless additional information is received to verify the validity of the alarm. Police will be dispatched whenever the alarm company, or some other source, can verify the alarm was tripped as the result of criminal activity or other emergency.

This policy does not change response to panic, duress, or robbery alarms.

This Policy should not be interpreted to infer that a properly functioning alarm is not a desirable means of preventing crime. The Modesto Police Department continues to believe that a good alarm, properly installed and operated, is one of the best methods to protect a premise against unlawful intrusion.

455.2 DEFINITIONS

Verified Alarm: Under most circumstances, on-site verification by a responder to determine whether or not a police response to a property/intrusion/burglar alarm is due to a crime, attempted crime, or other emergency occurring at the premises protected by an alarm is warranted.

Verification of an alarm may be accomplished through the use of audio and/or video monitoring systems maintained by the homeowner or the alarm monitoring company. Witness reports (i.e. private security) of glass breakage, suspicious persons in the area of the alarm, or suspects observed entering the business/residence, etc. should be considered verification of the alarm.

It is recognized that there will be other unique circumstances that will necessitate patrol response. The totality of the circumstances should be considered before patrol and dispatch personnel determine the validity of a commercial/residential alarm. For example, a vacationing homeowner calls police after being notified by the alarm company of a late night glass breakage and motion sensor activation and confirms there are no permitted visitors and no history of false alarms. This is just one example of a circumstance where a response would be recommended to an alarm that was otherwise unverified.

All commercial alarms occurring outside normal business hours will be considered a verified alarm. There may also be any other events or circumstances that indicate the alarm may be valid which include, but are not limited to, recent criminal activity in the area and/or no history of false alarms. Examples include:

(a) Audio feedback alarms where the monitoring company has heard evidence of criminal activity.
(b) If responder/key holder is at the scene and requests a walk through by police officers then 2 officers will be dispatched to a security check (SECCK) depending on current activity levels and if we are responding to priority three calls at the time of the request.

(c) Video feedback alarm location showing evidence of possible criminal activity.

(d) Verification by a guard service or private security that has responded to the location.

455.3 PROCEDURE
The Communications Center receives a call of an audible or silent burglary or intrusion alarm. The Communications Center obtains as much information as possible from the alarm monitoring company or homeowner.

If the information received fits the verification criteria (see above), the call should be entered appropriately for the circumstances (i.e. “459 In-Progress”) and at least two officers will be dispatched to respond. If no officers are available, Dispatch will use the same procedure currently used for other in-progress calls.

If the information received does not fit the verification criteria, the Communication Center will ask if two (2) different phone numbers were called and will record those phone numbers for future reference. If two different numbers were called and the customer or monitoring company has not canceled the alarm, the call will be entered as either a “C8AR” or “C8AC”, and given a Priority 3 and broadcast as a “Be-on-the-lookout” (BOL) only. The purpose of the BOL of unverified alarms is to make officers aware of the activation of an alarm in their assigned area. Officers may, at their discretion, respond to the alarm if time permits.

Officers should pay particular attention to unverified alarms where the BOL indicates that a responder/key holder from the business will be responding to the location. Further, officers should consider their knowledge of the history of false alarms at the location, the current patterns of burglaries in the area, and other information they are aware of when determining response to check the location and area when the BOL is broadcast.

At the discretion of a field supervisor, or if there is no response after 30 minutes, the Dispatcher enters “No Officer Response” in the supplement text and closes the call.

If an outside party (i.e. neighbor) calls in an alarm which does not meet the above procedures, Dispatch will enter the call and broadcast as a BOL only. For example: A neighbor calls in reporting hearing an alarm bell somewhere on their block.

455.3.1 RESPONSE TECHNIQUES
Response techniques should be determined by, but not limited to, the time of day, type of premises involved, and number of police officers available. Upon completion of a response, if the alarm is found to be false, the following information should be entered into the card closure:

(a) Names and contact information of any person contacted, including any suspicious persons/circumstances in the area.

(b) Any evidence of attempted entry, damage, or unsecured door.
Police Response to Burglary and Robbery Alarms

(c) Indicate whether or not a courtesy notice was left at the scene. A Courtesy Notice should be left at the scene to notify the owner of the false alarm and the police response.

(d) Reason, if known, what activated the alarm.

455.4 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
Automated License Plate Readers (ALPRs)

462.1 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.

462.2 POLICY
The policy of the Modesto 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.

462.3 ADMINISTRATION
The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Modesto 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 Operations Division Commander. The Operations Division Commander will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

462.3.1 ALPR ADMINISTRATOR
The Operations Division Commander or authorized designee 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.
Automated License Plate Readers (ALPRs)

(g) Ensuring this policy and related procedures are conspicuously posted on the department’s website.

462.4 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.

462.5 DATA COLLECTION AND RETENTION
The Operations Division Commander or authorized designee 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 (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

462.6 ACCOUNTABILITY
All data will be closely safeguarded and protected by both procedural and technological means. The Modesto 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):
Automated License Plate Readers (ALPRs)

(a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).

(b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.

(c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

462.7 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 Operations Division Commander or the authorized designee and approved before the request is fulfilled.

(c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

462.8 TRAINING
The Training Supervisor shall 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).

462.9 REVISIONS
Adopted October 1, 2014

• Revised July 1, 2016
Homeless Persons

464.1 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 Modesto Police Department recognizes that members of the homeless community are often in need of special protection and services. The Modesto 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.

464.1.1 POLICY
It is the policy of the Modesto 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.

464.2 HOMELESS COMMUNITY LIAISON
The Chief of Police will designate a member of this department to act as the Homeless Liaison Officer, who is typically the supervisor of HEART or as assigned by Area Command. The responsibilities of the Homeless Liaison Officer include the following:

(a) Maintain and make available to all department employees a list of assistance programs and other resources that are available to the homeless.

(b) Meet with social services and representatives of other organizations that render assistance to the homeless.

(c) Maintain a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.

(d) Remain abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include:
   1. Proper posting of notices of trespass and clean-up operations.
   2. Proper retention of property after clean-up, to include procedures for owners to reclaim their property in accordance with the Property and Evidence Policy and other established procedures.

(e) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure that the rights of the homeless are not violated.

(f) Develop training to assist officers in understanding current legal and social issues relating to the homeless.
464.3 FIELD CONTACTS
Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate.

464.3.1 OTHER CONSIDERATIONS
Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

(a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
(b) Document places the homeless person may frequent.
(c) Provide homeless victims with victim/witness resources when appropriate.
(d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.
(e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Senior and Disability Victimization Policy.
(f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
(g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

464.4 PERSONAL PROPERTY
The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed and measures should be
taken to remove or secure the property. It will be the supervisor’s responsibility to coordinate the removal and safekeeping of the property.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the department Homeless Liaison Officer. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Homeless Liaison Officer.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the department Homeless Liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the Homeless Liaison Officer to address the matter in a timely fashion.

464.5 MENTAL ILLNESS AND MENTAL IMPAIRMENT
Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (See Crisis Intervention Incident 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.

464.6 ECOLOGICAL ISSUES
Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

464.7 REVISIONS
Adopted October 1, 2014

- Revised October 1, 2016
- Revised May 1, 2021
Public Recording of Law Enforcement Activity

465.1 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.

465.2 POLICY
The Modesto 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.

465.3 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.

465.4 OFFICER RESPONSE
Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or
behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

465.5 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.

465.6 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
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evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

465.7 REVISIONS
Adopted October 1, 2014

• Revised April 1, 2016
• Revised September 1, 2016
First Amendment Assemblies

466.1 PURPOSE AND SCOPE
This policy provides guidance for responding to public assemblies or demonstrations.

466.2 POLICY
The Modesto 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.

466.3 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 command to ensure that members’ interaction with participants and their response to crowd dynamics is appropriate.
First Amendment Assemblies

466.3.1 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.

466.4 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 Stanislaus Regional 9-1-1, and the assignment of a supervisor should be requested. Additional mobile field force 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.

466.5 PLANNED EVENT PREPARATION
For planned events, comprehensive, incident-specific operational plans should be developed, utilizing mobile field force resources. The ICS should be considered for such events.

466.5.1 INFORMATION GATHERING AND ASSESSMENT
In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.
First Amendment Assemblies

- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

466.5.2 OPERATIONAL PLANS
An operational planning team and/or the Mobile Field Force Command 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.
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(s) Protocol for handling complaints during the event.
(t) Parameters for the use of body-worn cameras and other portable recording devices.

466.5.3 MUTUAL AID AND EXTERNAL RESOURCES
The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Mutual Aid and Outside Agency Assistance Policy).

466.6 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. Example below:

I AM OFFICER ________ OF THE MODESTO POLICE DEPARTMENT. I HEREBY DECLARE THIS TO BE AN UNLAWFUL ASSEMBLY, AND IN THE NAME OF THE PEOPLE OF THE STATE OF CALIFORNIA, COMMAND ALL THOSE ASSEMBLED AT (GIVE SPECIFIC LOCATION) TO IMMEDIATELY DISPERSE. IF YOU DO NOT DO SO, YOU WILL BE ARRESTED. SECTION 409 OF THE PENAL CODE PROHIBITS REMAINING PRESENT AT AN UNLAWFUL ASSEMBLY. THE FOLLOWING ROUTES OF DISPERSAL ARE AVAILABLE (GIVE THE MOST CONVENIENT ROUTES OF DISPERSAL). YOU HAVE ______ MINUTES (A REASONABLE AMOUNT OF TIME) TO DISPERSE.

466.7 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).
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Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and TASER® devices should be considered only when the participants’ conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

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.

466.8 ARRESTS
The Modesto 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).

466.9 MEDIA RELATIONS
The Public Information Officer should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the
event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

466.10 DEMOBILIZATION
When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

466.11 POST EVENT
The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

(a) Operational plan
(b) Any incident logs
(c) Any assignment logs
(d) Vehicle, fuel, equipment and supply records
(e) Incident, arrest, use of force, injury and property damage reports
(f) Photographs, audio/video recordings, Stanislaus Regional 9-1-1 records/tapes
(g) Media accounts (print and broadcast media)

466.11.1 AFTER-ACTION REPORTING
The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

(a) Date, time and description of the event
(b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
(c) Problems identified
(d) Significant events
(e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

466.12 TRAINING
Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The Department should, when practicable, train with its external and mutual aid partners.

466.13 REVISIONS
Adopted April 12, 2017
First Amendment Assemblies

- Revised July 1, 2020
- Revised September 1, 2020
Civil Disputes

467.1 PURPOSE AND SCOPE
This policy provides members of the Modesto 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.

467.2 POLICY
The Modesto 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.

467.3 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.
Civil Disputes

467.4 COURT ORDERS
Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

(a) The person’s knowledge of the court order or whether proof of service exists.
(b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

467.4.1 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.

467.5 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.

467.6 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.
Civil Disputes

467.7 REVISIONS
Adopted September 1, 2016
Suspicious Activity Reporting

468.1 PURPOSE AND SCOPE
This policy provides guidelines for reporting and investigating suspicious and criminal activity.

468.1.1 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.

468.2 POLICY
The Modesto 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.

468.3 REPORTING AND INVESTIGATION
Any department member receiving information regarding suspicious activity should take any necessary immediate and appropriate action. Notification of a field supervisor or the Watch Commander will be made as soon as practical. Any civilian member who receives such information should ensure that it is passed on to a field supervisor or the Watch Commander in a timely manner.
468.4 RESPONSIBILITIES
The Investigative Services Assistant Division Commander and the Intelligence Detective 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 Investigative Services Assistant Division Commander include, but are not limited to:

(a) Remaining familiar with those databases available to the Department that would facilitate the purpose of this policy.

(b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.

(c) Ensuring 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.

(d) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.

(e) Coordinating investigative follow-up, if appropriate.

(f) Coordinating with any appropriate agency or task force.

468.5 HANDLING INFORMATION
The Records Unit will forward copies of SARs, in a timely manner, to the following:

- Investigative Services Assistant Division Commander
- Crime Analysis Unit
- Intelligence Detective

468.6 REVISIONS
Adopted October 1, 2014

- Revised September 1, 2020
- Revised May 1, 2021
Medical Aid and Response

469.1 PURPOSE AND SCOPE
This policy recognizes that members often encounter persons who appear to be in need of medical aid and establishes a law enforcement response to such situations.

469.2 POLICY
It is the policy of the Modesto Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

469.3 FIRST RESPONDING MEMBER RESPONSIBILITIES
Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR and 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 Stanislaus Regional 9-1-1 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 or any other personal protective equipment, 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 Stanislaus Regional 9-1-1 with information for relay to EMS personnel in order to enable an appropriate response, including:

(a) The location where EMS is needed.
(b) The nature of the incident.
(c) Any known scene hazards.
(d) Information on the person in need of EMS, such as:
   1. Signs and symptoms as observed by the member.
   2. Changes in apparent condition.
   3. Number of patients, sex and age, if known.
   4. Whether the person is conscious, breathing and alert, or is believed to have consumed drugs or alcohol.
   5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.
Medical Aid and Response

469.4 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 and possibly handcuff 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.

469.5 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 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.

469.5.1 SICK OR INJURED ARRESTEE
If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.
Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor’s approval.

**469.6 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.

**469.7 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.

The Operations Division Commander should develop guidelines for air ambulance landings or enter into local operating agreements for the use of air ambulances, as applicable. In creating those guidelines, the Department should identify:

- Responsibility and authority for designating a landing zone and determining the size of the landing zone.
- Responsibility for securing the area and maintaining that security once the landing zone is identified.
- Consideration of the air ambulance provider’s minimum standards for proximity to vertical obstructions and surface composition (e.g., dirt, gravel, pavement, concrete, grass).
- Consideration of the air ambulance provider’s minimum standards for horizontal clearance from structures, fences, power poles, antennas or roadways.
- Responsibility for notifying the appropriate highway or transportation agencies if a roadway is selected as a landing zone.
- Procedures for ground personnel to communicate with flight personnel during the operation.

One department member at the scene should be designated as the air ambulance communications contact. Headlights, spotlights and flashlights should not be aimed upward at the air ambulance. Members should direct vehicle and pedestrian traffic away from the landing zone.

Members should follow these cautions when near an air ambulance:

- Never approach the aircraft until signaled by the flight crew.
- Always approach the aircraft from the front.
- Avoid the aircraft’s tail rotor area.
- Wear eye protection during landing and take-off.
- Do not carry or hold items, such as IV bags, above the head.
• Ensure that no one smokes near the aircraft.

469.8 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).

469.8.1 AED USER RESPONSIBILITY
Members who are issued AEDs for use in department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Admin Services Sergeant 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 Stanislaus Regional 9-1-1 as soon as possible and request response by EMS.

469.8.2 AED REPORTING
Any member using an AED will complete an incident report detailing its use.

469.8.3 AED TRAINING AND MAINTENANCE
The Training Supervisor 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 Admin Services Sergeant 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).

469.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION
Members may administer opioid overdose medication in accordance with protocol specified by the licensed health care provider who authorized the overdose medication for use by the member and (Civil Code § 1714.22; 22 CCR 10019):

(a) When trained and tested to demonstrate competence following initial instruction.

(b) When authorized by the medical director of the LEMSA.

(c) In accordance with California Peace Officer Standards and Training (POST) standards.

469.9.1 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 the 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 Training Supervisor.

Any member who administers an opioid overdose medication should contact Dispatch as soon as possible and request response by EMS.

469.9.2 OPIOID OVERDOSE MEDICATION REPORTING
Any member administering opioid overdose medication should detail its use in an appropriate police report and complete an Overdose Report and Naloxone Refill form. The Overdose Report and Naloxone Refill form should be submitted to Records to be forwarded to Mountain Valley EMS Agency.

469.9.3 OPIOID OVERDOSE MEDICATION TRAINING
The Training Supervisor 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 (f) and any applicable POST standards (Civil Code § 1714.22).

469.10 FIRST AID TRAINING
The Training Sergeant 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).

469.11 REVISIONS
Adopted July 1, 2016

- Revised October 1, 2016
- Revised March 1, 2018
- Revised January 1, 2020
Crisis Intervention Incidents

470.1 PURPOSE AND SCOPE
This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person’s mental state and intent in order to effectively and legally interact with the individual.

470.1.1 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.

470.2 POLICY
The Modesto 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.

470.3 SIGNS
Members should be alert to any of the following possible signs of mental health issues or crises:

(a) A known history of mental illness
(b) Threats of or attempted suicide
(c) Loss of memory
(d) Incoherence, disorientation or slow response
(e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
(f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
(g) Social withdrawal
(h) Manic or impulsive behavior, extreme agitation, lack of control
(i) Lack of fear
(j) Anxiety, aggression, rigidity, inflexibility or paranoia
Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

### 470.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS
The Chief of Police should designate an appropriate supervisor 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.

### 470.5 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.
Crisis Intervention Incidents

(k) If circumstances reasonably permit, consider and employ alternatives to force.

470.6 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.

470.7 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.
470.8 SUPERVISOR RESPONSIBILITIES
A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

(a) Attempt to secure appropriate and sufficient resources.
(b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
(c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
(d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
(e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Division Commander.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

470.9 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.

470.9.1 DIVERSION
Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

470.10 CIVILIAN INTERACTION WITH PEOPLE IN CRISIS
Civilian members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

(a) Members should treat all individuals equally and with dignity and respect.
(b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
(c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person’s behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person
Crisis Intervention Incidents

may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

470.11 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).

470.12 REVISIONS
Adopted October 1, 2016

• Revised January 1, 2017
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 Modesto 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.

500.2.1 8-STEP TRAFFIC STOP METHOD
Modesto Police Department uses the 8-step traffic stop method:

(a) Greeting (e.g. good morning/evening)
(b) Identify yourself/department
(c) Reason for stop
(d) Ask if legal justification for violation
(e) Get driver’s license
(f) Get registration card/insurance
Traffic Function and Responsibility

(g) Determine enforcement action
(h) Close

Officer may divert from the 8-step traffic stop method if they are faced with a circumstance where their safety or the public's safety is in immediate jeopardy and other dialog and/or commands are appropriate.

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 where the facts indicate that proper resolution of the incident may be achieved without formal court action. This discretionary action may be restricted by a supervisor in those areas of directed patrol or selective enforcement requiring stricter attention to the "letter of the law".

When a written or verbal warning is issued, the officer should advise the driver if any further action is necessary.

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) A copy of the citation, including any scheduled court appearances
(b) Explanation of the violation or charge
(c) Explain to the driver they will receive information, by mail, from the Stanislaus County Traffic Court or they can visit the web-site at www.stanct.org and search by citation number. This will provide them with necessary information on mandatory/optional court appearance, availability of entering a plea and/or fines due, along with any other necessary information.

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
Traffic Function and Responsibility

(c) Felony or misdemeanor hit-and-run
(d) Refusal to sign notice to appear
(e) Any other misdemeanor at the discretion of the officer, such as reckless driving with extenuating circumstances

500.4 SUSPENDED OR REVOKED DRIVERS LICENSES
If an officer contacts a traffic violator for driving on a suspended or revoked license, the officer may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the officer. The officer shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The officer will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

500.5 HIGH-VISIBILITY VESTS
The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

500.5.1 REQUIRED USE
Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes officer might benefit from being readily identified as a member of law enforcement.

500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS
High-visibility vests shall be maintained in the trunk of each patrol and investigation unit, in the saddlebag of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest.
Traffic Function and Responsibility

in a serviceable condition. Before going into service each employee shall ensure a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Training Supervisor should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

500.6 LAW ENFORCEMENT ESCORTS
Law enforcement escorts will generally not be provided.

In special situations and when deemed appropriate by command staff, escorts may be permitted. In those cases, the Traffic Unit supervisor will be responsible for logistics regarding such escorts. These situations will include, but are not limited to, dignitaries, funerals, oversized vehicles and hazardous cargo.

Escorts of civilian vehicles in medical emergencies are generally prohibited. Medical treatment will be faster when emergency medical personnel respond to the scene.

500.7 REFERRALS
All engineering concerns and requests for stop signs, speed bumps, barrier walls and the like, shall be referred to the Public Works Department, Engineering and Transportation Division.

If the citizen wishes to make a written complaint, they should mail their complaint to:

Public Works Department, Engineering and Transportation Division, P.O. Box 642, Modesto, Ca. 95353.

500.8 REVISIONS
Adopted October 1, 2014
- Revised February 1, 2017
Traffic Collision Review Committee

501.1 PURPOSE AND SCOPE
The purpose of this policy is to establish a process for reviewing traffic collisions and non-traffic collisions, also referred to as traffic incidents, involving employees of the Modesto Police Department. The very nature of traffic collisions and traffic incidents are that they are almost always unintentional, but these events can cause serious liability issues and lead to injuries of employees or citizens. The department has an obligation to fairly and objectively review these events.

The purpose of the Traffic Collision Review Committee (TCRC) is to review on-duty traffic collisions and incidents and to recommend training options or accountability measures to the involved employee’s chain of command. These efforts are designed to encourage safe driving, reduce/prevent employee-involved vehicle collisions, and minimize government liability.

The Committee will be tasked with carefully and thoroughly reviewing each occurrence and determine if the event was “Preventable,” “Not Preventable,” or “Damaged Equipment” pursuant to the definitions outlined below. Though the intent of the Committee recommendations is to promote safety and ensure consistency in corrective actions, preventable collisions and incidents may result in the matter being referred to the Internal Affairs Unit, based on the totality of the circumstances.

501.2 POLICY
All persons operating department/city-owned vehicles are expected to operate them in a safe manner, consistent with driver’s training, and observing all state/local traffic regulations and in accordance with all applicable departmental policies and procedures. In the event of a traffic collision or traffic incident, the department must review the circumstances of the incident to determine responsibility, and then make recommendations which might include identifying additional individual/departamental training needed or possible corrective action.

501.3 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES
Traffic collision investigation reports shall be taken when any City-owned or Government-owned vehicle is involved in a traffic collision upon a roadway or highway wherein any damage or injury results. A general information report (Traffic Incident) may be taken in lieu of a traffic collision report at the direction of a supervisor when the collision occurs on private property or does not involve another vehicle.

501.4 DEFINITIONS
Vehicle collisions/incidents will be classified into the following categories:

"Preventable" – a traffic collision or traffic incident in which the employee is found to be, or contributed to, the proximate cause of the event. This may also include events where through lack
of training or distinct indecisiveness, the employee failed to take action that could have prevented the event.

“Not Preventable” – an event where the employee did not contribute to the collision/incident.

“Damaged Equipment” – an event in which the vehicle was damaged by natural forces, from a deliberate act, from a non-perceivable object or while the vehicle was properly parked. Other findings in this category might include unusual circumstances beyond the control of the employee, the employee found it necessary to operate the vehicle in a manner not common to everyday practice, or the mere nature of the event required taking deliberate, but measured action, which resulted in damage to a city vehicle.

501.5 TRAFFIC COLLISION REVIEW COMMITTEE
The Traffic Collision Review Committee (TCRC) will be comprised of the following members, as designated by the Chief of Police:

(a) Chairperson/Commanding Officer (EVOC Lieutenant)
(b) EVOC/Patrol Supervisor (EVOC Sergeant)
(c) EVOC Team Member (EVOC Officer or Detective)
(d) Traffic Unit Supervisor (Traffic Lieutenant or Sergeant)
(e) Traffic Unit Member (Traffic Officer)

501.6 TRAFFIC COLLISION REVIEW COMMITTEE PROCEDURE
Notification to Committee: Supervisors who are assigned to investigate or otherwise become aware of a traffic collision, traffic incident, or an event that includes damage to a department vehicle, will advise the EVOC Lieutenant and EVOC Sergeant of the event via email as soon as practical. This email should include the basic details of the event, the personnel involved, and the assigned case number.

Meeting Procedure/Frequency: The Committee will meet monthly, or as needed, to evaluate each event recommended for review. In all cases, there will be a minimum of three committee members present with at least one being the rank of Lieutenant or sergeant. After receiving notification of an event which requires a review, the TCRC will conduct an analysis of each referred event, taking into consideration all available documents, reports, testimony or other relevant evidence. As a result of that analysis, the Committee will assign each referred event to the appropriate category of “Preventable”, “Not-Preventable”, or “Damaged Equipment.” Additionally, recommendations for corrective action or required training will be outlined in the Committee document.

Routing of Committee Recommendations / Supervisor Action:

(a) Lieutenant of involved employee
(b) Sergeant of involved employee
(c) Involved employee (supervisory notification of action taken)
(d) Lieutenant of involved employee
(e) TCRC Commanding Officer (for review of final outcome)

**Tracking:** The Traffic Sergeant will maintain a log of all department involved traffic collisions and traffic incidents referred to the TCRC. This will create a record of all such events, and ensure that the Committee is aware of all applicable events.

### 501.7 TRAFFIC COLLISION REVIEW COMMITTEE FINDINGS

The TCRC will make recommendations which may include corrective action(s), identify additional training needed, or recommend the incident be referred to Internal Affairs as needed.

For those events which the TCRC deems “Preventable,” the Committee will forward the TCRC Recommendation Form to the employee’s chain of command for consideration and disposition. The employee’s chain of command will complete their findings and disposition and return the TCRC Recommendation Form to the TCRC to ensure consistency in training and accountability within the department.

### 501.8 REVISIONS

Adopted June 1, 2018
Traffic Collision Reporting

502.1 PURPOSE AND SCOPE
The Modesto Police Department prepares traffic collision reports in compliance with the California Highway Patrol Collision Investigation Manual (CIM), and as a public service makes traffic collision reports available to the involved individuals and their authorized representatives as set forth in Vehicle Code § 20012.

502.2 RESPONSIBILITY
The Traffic Sergeant will be responsible for distribution of the Collision Investigation Manual. The Traffic Sergeant will receive all changes in the state manual and ensure conformity with this policy. The Collision Investigation Manual is also posted on the Modesto PD Intranet.

502.3 TRAFFIC COLLISION REPORTING
All traffic collision reports should be completed by the end of the officer’s shift. In no event shall a report be held incomplete over an officer’s regular days off or an extended leave of absence without supervisor approval.

The CHP State Traffic Collision Report or the MPD multiple copy collision report forms will be completed for all reportable traffic collisions. The gold driver’s report form may be used when the driver is reporting property damage only and no investigation or determination of fault will be made by an officer or CSO. The yellow counter report form may be used for hit and run collisions reported at the police department. The counter reports are to be completed by the involved party or with the assistance of an officer or CSO. The accepting officer or CSO should review the report for completeness and fill out the highlighted areas.

All traffic collision reports taken by members of this department shall be forwarded to the Traffic Unit for approval. A Traffic Supervisor or designated employee shall review all traffic collision reports. The review shall ensure that reports are submitted in a timely manner and contain complete/accurate information.

Once collision reports are approved, the reports are processed and distributed by the Traffic Unit and the original reports are maintained in Records. The Traffic Collision data is entered into the records management system, which allows for the identification of high traffic-related incidents and statistical data.

502.4 REPORTING SITUATIONS

502.4.1 TRAFFIC COLLISIONS INVOLVING CITY VEHICLES
Traffic collision investigation reports shall be taken when any City-owned or Government-owned vehicle is involved in a traffic collision upon a roadway or highway wherein any damage or injury results. A general information report may be taken in lieu of a traffic collision report (CHP 555 form) at the direction of a supervisor when the collision occurs on private property or does not involve
Traffic Collision Reporting

another vehicle. Whenever there is damage to a City vehicle, a Damaged Equipment Report shall be completed and forwarded to the appropriate Division Commander.

Photographs of the collision scene and vehicle damage shall be taken to show damage or lack of damage to any involved vehicles and/or property.

502.4.2 TRAFFIC COLLISIONS WITH POLICE DEPARTMENT EMPLOYEES
When an employee of this department, either on-duty or off-duty, is involved in a traffic collision within the jurisdiction of the Modesto Police Department resulting in a serious injury or fatality, the Traffic Supervisor or the Watch Commander may notify the California Highway Patrol for assistance.

The term serious injury is defined as any injury that may result in a fatality.

502.4.3 TRAFFIC COLLISIONS WITH OTHER CITY EMPLOYEES OR OFFICIALS
The Traffic Supervisor or on-duty Watch Commander may request assistance from the California Highway Patrol for the investigation of any traffic collision involving any City official or employee where a serious injury or fatality has occurred.

502.4.4 PUBLIC / GOVERNMENT PROPERTY DAMAGE
A collision investigation or traffic incident report shall be completed for any damage to public/government property. A collision report shall be completed if value of property is over $750.00.

502.4.5 TRAFFIC COLLISIONS ON PRIVATE PROPERTY
Collision investigations on private property are only required under the following circumstances:

(a) Death or injury
(b) Hit and run
(c) Driving under the influence
(d) Involvement of government-owned vehicle

When a citizen calls to report a private property non-injury collision, Dispatch personnel or telephone reporting personnel shall advise the citizen of the need to exchange names and insurance information with the other involved party. A collision investigation report or traffic incident shall be completed for any damage to public/government property.

502.4.6 TRAFFIC COLLISIONS ON ROADWAYS OR HIGHWAYS
Traffic collision reports shall be taken when they occur on a roadway or highway within the jurisdiction of this department under any of the following circumstances:

(a) When there is a death or injury to any persons involved in the collision
(b) When there is an identifiable violation of the Vehicle Code
(c) When a supervisor or the Watch Commander requires a response by officers
Traffic Collision Reporting

502.4.7 HIT & RUN COLLISIONS
Hit and run investigations are conducted for the purpose of criminal prosecution. If the victim specifies the report is being made for insurance purposes only, a yellow counter, hit and run, report should be used.

502.4.8 COLLISIONS INVOLVING HAZARDOUS MATERIALS
Refer to Policy 412 - Hazardous Material Response

502.4.9 PROPERTY DAMAGE ONLY COLLISIONS
California Vehicle Code § 20008 and the CIM do not require collision reports on non-injury traffic collisions. Dispatch will be directed to advise the parties involved in a non-injury traffic collision to clear the roadway if possible and exchange information at the scene. If they want a report they should be sent to the Modesto Police Department to complete a counter report. (This does not apply to city or other government vehicles).

If the vehicles are disabled and blocking the roadway an officer, CSO or cadet should be dispatched to clear the roadway.

If the involved parties have a valid driver's license and proof of insurance the officer or CSO should assist the involved parties with exchanging information or complete a name exchange report (NER). The officer, CSO or cadet should type in a summary of the event in the CAD report notes. Parties should be provided with copies of the name exchange form.

If the parties do not have proof of insurance the officer or CSO shall issue a citation for Vehicle Code § 16028(a). The incident number shall be written in the case number box on the citation. Parties cited shall be indicated in the CAD report notes.

If the parties do not have a valid driver's license (12500(a) CVC, 14601 CVC) then a citation for the appropriate section shall be issued and the vehicle stored. The name exchange form shall be completed and copies given to each party. If a vehicle report is completed per 21651(p) CVC or 14601.6 CVC then the case number shall be written on the citation, otherwise the incident number shall be written on it. Parties cited shall be indicated in the CAD notes.

Any unused portion of the name exchange form shall be given to parties as extra copies or placed in the shred bins at the end of shift. No form will be submitted to records.

A non-injury collision report may be completed if the officer, CSO, or supervisor, believes a report should be written.

502.5 ACTIVATING TRAFFIC COLLISION TEAM
In the event of a traffic collision which results or will likely result in a fatality, the primary officer shall notify his/her supervisor immediately of the need for the collision investigation team. If the supervisor concurs, the Watch Commander will activate the Traffic Collision Team. The primary and assisting officers shall be responsible for scene security until relieved by the Traffic Collision Team.
The Traffic Collision Team will handle the report and investigation. Patrol officers and CSOs who arrive on scene will prepare a supplemental report documenting all actions they took, including statements, observations, etc.

502.6 TRAFFIC UNIT FOLLOW-UP
Collision reports will be forwarded to the Traffic Unit for follow-up, under the following conditions:

(a) Fatal collisions
(b) Officer-involved traffic collisions where an injury is reported
(c) Serious injury traffic collisions where criminal charges are likely, e.g. reckless driving. The Traffic Unit will be responsible for gathering additional data, as needed, for coordinating expert or technical assistance and for preparing formal reports to support criminal charges.
(d) Hit and Run Investigations

502.7 REVISIONS
Adopted October 1, 2014
- Revised April 1, 2016
- Revised August 1, 2020
Vehicle Towing and Release

510.1 PURPOSE AND SCOPE
To establish a consistent practice for the towing, storing and impounding of all vehicles authorized by the California Vehicle Code (CVC) and Modesto Municipal Code (MMC).

510.1.1 DEFINITIONS
**Stored Vehicle:** A vehicle is considered "STORED" when the registered owner is responsible for recovery of the vehicle and payment of fees to the tow company. This includes but is not limited to vehicles stored in accordance with CVC Sections 22651 (h), (o), (p) and 14602.6.

**Impounded Vehicle:** A vehicle is considered "IMPOUNDED" when the Police Department is responsible for fees to the tow company. Supervisory approval shall be obtained prior to a vehicle being impounded.

510.2 STORAGE AND IMPOUNDS

**CVC 12500 (a) Unlicensed or Expired Driver's Licenses (First Offense)** When an officer determines that the driver of a vehicle is in violation of CVC 12500 (a), the officer should issue the driver a citation for a violation of the appropriate subsection. In determining whether or not to tow the vehicle, the officer shall first consider the following "Community Caretaking Functions" for the driver's first offense of CVC 12500 (a):

(a) The vehicle jeopardizes public safety and the efficient movement of vehicular traffic.

(b) The vehicle creates a hazard to other drivers.

(c) The vehicle is a target for vandalism or theft.

(d) The vehicle is illegally parked and causing a hazard.

(e) There is no expectation that Modesto Police personnel move the vehicle to a legal parking spot.

(f) The driver may request the vehicle be towed.

If the vehicle falls under one of the community caretaking functions listed above, the vehicle shall be towed and stored under Vehicle Code 22651(p), commonly known as a (1) day tow. If there are no community caretaking functions present, and there is a licensed and sober passenger, the vehicle should be released to that passenger at the conclusion of the enforcement stop. If the driver parks in a lawful manner at the time of the enforcement stop and no community caretaking functions are present, then the vehicle should be left at the scene.

**CVC 12500(a) - Unlicensed or Expired Driver's License (Second or Subsequent Offense)** When an officer determines that the driver of a vehicle is in violation of CVC 12500 (a), AND the offending driver has been previously cited for the same offense, the officer shall issue the driver a citation and the vehicle shall be towed and stored pursuant to CVC 22651 (p), commonly known as a (1) day tow. The discovery of a previous citation and/or conviction for the same offense
should be considered "Prior Knowledge" of the consequences of driving without a license and the officer can reasonably predict that the offense will continue unless the vehicle is towed. The officer should make a reasonable attempt to verify if previous citations and/or convictions exist by checking the driver's DMV record via MDC or Dispatch. The presence of a licensed driver in the offender's vehicle should not be a consideration before towing in a situation where the offending driver has been previously cited for the same offense. This is only a consideration for first time offenders as mentioned in Paragraph "A".

**CVC 14601 - Suspended / Revoked Drivers Licenses** When the driver has been arrested/cited for a violation of section CVC 14601 (any inclusive subsection, i.e. 14601.1, 14601.2, etc.); Violations of CVC 14601 (and inclusive subsections) require knowledge of the suspension or revocation. Knowledge can be established by a valid service code indicated on the driver's DMV record, previous citation/conviction for same offense, or verbal admission from the driver. The DMV service codes are listed below.

- **A** First Class Mail, not returned unclaimed
- **B** Served, Signed Document on File
- **D** Personal Service Document on File
- **H** Acknowledgment, No Signature
- **I** Returned Unclaimed
- **J** Written Notice Served by Officer
- **K** Refused Service
- **L** Reported Deceased
- **M** Verbal Notice Document on File
- **P** Personal Service
- **R** Personal Service Unsuccessful

All the Service Codes constitute proof of knowledge of the suspension or revocation for enforcement purposes with the exception of "I", "K" and "R". If the officer determines that the driver was not aware that his/her driver's license was suspended/revoked, the officer shall issue a citation for CVC 12500 (a) and tow the vehicle pursuant to CVC 22651 (p), commonly known as a (1) day tow. If the officer determines that the driver was aware that his/her driver's license was suspended/revoked, the officer shall issue a citation for CVC the appropriate suspension violation and tow the vehicle pursuant to CVC 14602.6, commonly known as a (30) day tow.

**Out of State Driver's License** If the driver of the vehicle has a valid out of state driver's license, the officer should check his/her license status in California. If the subject has knowledge that his/her license is suspended/revoked license in California, the vehicle shall be towed and stored for thirty (30) days pursuant to 14602.6 CVC.
Vehicle Towing and Release

**CVC 23109.2 RECKLESS DRIVING/RACING /EXHIBITION OF SPEED** Whenever an officer determines that a person was engaged in any of the activities described below, the officer may tow and store the vehicle used in that offense. A motor vehicle so seized may be impounded for not more than 30 days. An arrest report must be completed for all applicable violations listed below.

(a) A motor vehicle speed contest, as described in 23109 (a) CVC.
(b) Reckless driving on a highway as described in 23103 (a) CVC.
(c) Reckless driving in an off-street parking facility, as described in 23103 (b) CVC.
(d) Exhibition of speed on a highway, as described in 23109 (c) CVC.

**CVC 22651(O) - EXPIRED REGISTRATION IN EXCESS OF 6 MONTHS**

When a vehicle is found or operated upon a roadway with expired registration in excess of six months the officer may tow the vehicle under this authority section. Prior to towing, the officer should check for any forms of temporary registration that allow for lawful movement upon the roadway. The officer may use discretion and consider the following factors before towing the vehicle under this section:

(a) Payment of registration fees
(b) Failure to pass smog
(c) Presence or lack of auto insurance on the vehicle

The officer should also consider delays in the state registration process before towing under this section. For example, legislative delays occurred in the Summer of 2011 where registration renewals were postponed outside of the control of registered owners.

**510.2.1 VEHICLE STORAGE REPORT**

Department members requesting towing, storage or impound of a vehicle shall complete a Vehicle Report (CHP Form 180) and when possible, accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). The yellow copy of the Vehicle Report should to be given to the tow truck operator and the original (white copy) and one half-sheet copy shall be submitted to the Records Unit as soon as practicable after the vehicle is stored and no later than the end of shift. The remaining half-sheet should be given to the driver of the vehicle.

**510.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES**

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall request a towing company via 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 a rotation tow via Dispatch and complete a Vehicle Report (CHP Form 180) using tow authority Vehicle Code § 22651(g).
Vehicle Towing and Release

510.2.3 STORAGE AT ARREST SCENES
Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by storing the arrestee’s vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases the owner shall be informed that the Department will not be responsible for theft or damages.

510.2.4 IMPOUNDMENT AT SOBRIETY CHECKPOINTS
Whenever a driver is stopped at a sobriety checkpoint and the only violation is that the operator is driving with an expired license or is an unlicensed driver (12500a CVC - refer to Policy 510, section 510.2), the officer shall make a reasonable attempt to identify the registered owner of the vehicle (Vehicle Code § 2814.2). The officer shall release the vehicle to the registered owner if the person is a licensed driver, or to another licensed driver authorized by the registered owner, provided the vehicle is claimed prior to the conclusion of the checkpoint operation.

If the vehicle is released at the checkpoint, the officer shall list on his/her copy of the notice to appear the name and driver's license number of the person to whom the vehicle is released.

When a vehicle cannot be released at the checkpoint, it shall be towed (Vehicle Code § 22651(p)). When a vehicle is removed at the checkpoint, it shall be released during the normal business hours of the storage facility to the registered owner or his/her agent upon presentation of a valid driver's license and current vehicle registration.

510.2.5 DRIVING A NON-CITY VEHICLE
Vehicles which have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.
510.2.6 DISPATCHER'S RESPONSIBILITIES
Upon receiving a request for towing, the dispatcher shall promptly telephone the towing service. The officer shall be advised when the request has been made and which towing service has been dispatched.

510.2.7 RECORDS UNIT RESPONSIBILITY
Records personnel shall promptly enter pertinent data from the completed Vehicle Report (CHP Form 180) into the Stolen Vehicle System (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5). A copy of the Vehicle Report, along with the "half sheet", are placed in the Abandoned Vehicle mailbox.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the AVA Unit to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

(a) The name, address, and telephone number of this Department.
(b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.
(c) The authority and purpose for the removal of the vehicle.
(d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice.

510.3 TOWING SERVICES
It shall be the procedure of the Modesto Police Department to dispatch tow services from the franchise rotation list in all cases involving the towing of vehicles except;

(a) When a vehicle operator has a disabled vehicle not causing a hazard or has a valid driver's license and is involved in a collision, and requests a specific towing company to tow his/her vehicle; or
(b) When none of the tow companies on the rotation list have the necessary skills or equipment to handle a specific task.

All other requests for tows shall be dispatched from the Franchise Towing Services List provided to the Communications Center by the Modesto Police Department.

510.3.1 TOWING CITY VEHICLES
The City of Modesto through Operations and Maintenance, Fleet Services, contracts by purchase order, Myers Tow, for disabled police passenger vehicles less than 10,000 pounds gross vehicle weight (GVW).
Vehicle Towing and Release

The contracted towing company shall furnish towing services for City passenger vehicles and trucks rated at less than 10,000 GVW per specification INFO3-13 to the City of Modesto on an 'as required' basis. The contract period is one year, with the ability to extend service up to three years at the annual renewal date.

The City reserves the right to cancel or revise the agreement at any time by submitting a notification to the vendor and public agencies.

Seller shall base towing costs on the City of Modesto specification INFO3-13.

510.4 VEHICLE INVENTORY
All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

510.5 SECURITY OF VEHICLES AND PROPERTY
Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, officers should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) which 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.

510.6 RELEASE OF VEHICLE
The Department will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

Vehicle releases are required for all vehicles towed by the Modesto Police Department (exception: recovered stolen vehicles, no release required). To obtain a vehicle release the registered owner of the vehicle must provide the following:

(a) The registered owner must provide current registration or a one-day moving permit.

(b) The registered owner must have a valid photo identification to prove ownership of the vehicle.

(c) Acceptable valid photo identification: Any U.S. State driver's license or I.D. card; any government photo I.D. (Passport or Military I.D.); any local government I.D. (city, county, state).
Vehicle Towing and Release

(d) No other I.D. shall be accepted without supervisory approval.

(e) If the registered owner does not have a valid driver's license, in addition to valid photo identifications s/he must have an agent with a valid driver's license present.

(f) Out of state driver's licenses are acceptable, if DMV does not indicate a suspended California driver's license and California residency as defined in 12505 CVC has not been established

- 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 if the vehicle was stolen, if the driver reinstates his/her driver's license, if the driver acquires a license and proper insurance, or under other circumstances as set forth in Vehicle Code § 14602.6.

- 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 and Vehicle Code § 22850.5).

- Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration or a one-day moving permit is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3 and Vehicle Code § 22850.5).

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 the Franchise Tow Administrator or a supervisor. The Franchise Tow Administrator or 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.

510.7 REPOSSESSION RELEASE
A vehicle towed and stored by the Modesto Police Department may be released to the legal owner or the legal owner's agent if all the following conditions are met:

(a) The legal owner is a motor vehicle dealer, bank, credit union, Acceptance Corporation or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle.

(b) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. No lien sale processing fees shall be charged to the legal owner who redeems the vehicle prior to the 15th day of impoundment.
Vehicle Towing and Release

(c) The legal owner or the legal owner's agent presents a copy of the assignment, as defined in subdivision (b) of Section 7500.1 of the Business and Professions Code and any one of the following: a certificate of repossessions for the vehicle, a security agreement for the vehicle, or title showing proof of legal ownership for the vehicle. These documents may be originals, photocopies, facsimile copies or may be transmitted electronically.

(d) The agent of the legal owner shall produce a photocopy or facsimile copy of its repossessions agency license or registration, or demonstrate that the agent is exempt from licensure pursuant to 7500.2 or 7500.3 of the Business and Professions Code.

(e) The legal owner or the legal owner's agent may not relinquish the vehicle to the registered owner until the registered owner or that owner's agent presents his/her valid driver's license. The legal owner shall make every reasonable effort to ensure that the license presented is valid. The legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and any administrative fees incurred by the legal owner in connection with obtaining custody of the vehicle. A legal owner or his/her agent that obtains the release of a vehicle towed under authority 14602.6 or 23109.2 shall not release the vehicle to the registered owner of that vehicle prior to the 30th day unless the registered owner is a rental car agency.

(f) No administrative costs (release fee) shall be charged to the legal owner.

510.8 RELEASE FEES
Vehicles towed by the Modesto Police Department are charged a fee as determined by the City Council:

Illegal Parker / Abandoned Vehicle  $120.00
Unlicensed Driver / Expired Registration  $160.00
Suspended, Revoked Driver / Arrested Driver  $250.00
DUI Driver:  $450.00

No vehicle release fee shall be charged for recovered stolen vehicles or to the legal owner repossessing a vehicle. The vehicle release fee may be waived at the discretion of the Chief of Police or his/her designated representative.

510.9 REVISIONS
Adopted October 1, 2014

- Revised October 1, 2017
Vehicle Impound Hearings

512.1 PURPOSE AND SCOPE
This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

512.2 STORED OR IMPOUND HEARING
When a vehicle is stored or impounded by any member of the Modesto Police Department, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

512.2.1 HEARING PROCEDURES
The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The Tow Administrator or his/her designee 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
Vehicle Impound Hearings

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.

512.3 REVISIONS
Adopted October 1, 2014

• Revised April 1, 2016
Impaired Driving

514.1 PURPOSE AND SCOPE
This policy provides guidance to those department members who play a role in the detection and investigation of driving under the influence (DUI).

514.2 POLICY
The Modesto Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

514.3 INVESTIGATIONS
Officers should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. All officers are expected to enforce these laws with due diligence.

The Traffic Lieutenant will develop and maintain, in consultation with the prosecuting attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DUI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum:

(a) The field sobriety tests (FSTs) administered and the results.
(b) The officer’s observations that indicate impairment on the part of the individual, and the officer’s health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
(c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
(d) Information about any audio and/or video recording of the individual’s driving or subsequent actions.
(e) The location and time frame of the individual’s vehicle operation and how this was determined.
(f) Any known prior related convictions in California.

514.4 FIELD TESTS
The Traffic Lieutenant should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of DUI laws.

514.5 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.

514.5.1 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 his/her blood or breath, and the officer shall advise the person that he/she has that choice. If the person arrested either is incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the officer may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

514.5.2 BREATH SAMPLES
The Traffic 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 Traffic Lieutenant.

When the arrested person chooses a breath test, the handling officer shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The officer should also require the person to submit to a blood test if the officer has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an
alcoholic beverage and any drug. Evidence of the officer’s belief shall be included in the officer’s report (Vehicle Code § 23612(a)(2)(C)).

514.5.3 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 he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

514.5.4 URINE SAMPLES
If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

514.5.5 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).

514.5.6 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, he/she shall be advised that the PAS test is voluntary. The officer shall also advise the person that submitting to a PAS test does not satisfy his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).
514.5.7 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 his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the officer shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

514.6 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.

514.6.1 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.

514.6.2 FORCED BLOOD SAMPLE
If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

(a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
(b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
(c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the individual to submit to such a sample without physical resistance.

1. This dialogue should be recorded on audio and/or video if practicable.
(d) Ensure that the blood sample is taken in a medically approved manner.
(e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
(f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
   (a) Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
   (b) Force which reasonably appears necessary to overcome the resistance to the blood being withdrawn may be permitted. Unreasonable or unnecessary force could make the blood sample inadmissible and expose the officer(s) and the department to criminal and civil liability.
(g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

514.6.3 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)).

514.7 ARREST AND INVESTIGATION

514.7.1 WARRANTLESS ARREST
In addition to the arrest authority granted to officers pursuant to Penal Code § 836, an officer may make a warrantless arrest of a person that the officer has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):
   (a) The person is involved in a traffic accident.
   (b) The person is observed in or about a vehicle that is obstructing the roadway.
   (c) The person will not be apprehended unless immediately arrested.
   (d) The person may cause injury to him/herself or damage property unless immediately arrested.
   (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

514.7.2 OFFICER RESPONSIBILITIES
The officer serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):
   (a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver’s license to the Department of Motor Vehicles (DMV).
Impaired Driving

(b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
(c) Forward the sample to the appropriate forensic laboratory if the person submitted to a blood or urine test.

514.8 RECORDS UNIT RESPONSIBILITIES
The Records Unit will ensure that all case-related records are copied and forwarded, according to current records procedures, and as required by the prosecuting attorney’s office.

In addition, forensic laboratory results on blood or urine tests will also be forwarded as soon as received from the lab.

514.9 ADMINISTRATIVE HEARINGS
The supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any officers who receive notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

Officers called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified. The Records Unit should forward this to the prosecuting attorney as part of the case file.

514.10 TRAINING
The Training Supervisor should ensure that officers participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Training Supervisor should confer with the prosecuting attorney’s office and update training topics as needed.

514.11 REVISIONS
Adopted October 1, 2014

- Revised August 1, 2016
- Revised August 1, 2019
Traffic Citations

516.1 PURPOSE AND SCOPE
This policy outlines the responsibility for traffic and parking citations, the procedure for dismissal, correction, and voiding of traffic citations.

516.2 RESPONSIBILITIES
The Traffic Supervisor be responsible for the development and design of all Department traffic citations in compliance with state law and the Judicial Council.

The Records Unit shall be responsible for the supply, accounting and issuing of all traffic citations issued to employees of this department. Citation books are kept in a secured area within the Records Unit. When a citation book is issued, the citation log will be completed by the employee receiving the book, and the issuing police clerk will initial the log to confirm the accuracy of the entry.

A Police Civilian Supervisor will initial and date the completed logs, and make any necessary entries into the system to record the citation book issuance.

When a citation is issued and is not attached to a written report, all copies (except the violator’s copy) will be turned in to the Traffic/Citation mailbox, at the end of the employee’s shift.

516.3 DISMISSAL OF TRAFFIC CITATIONS
Employees of this department do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)).

Should an officer determine 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. In cases where the violator has already received their copy of the citation, a “Request for Dismissal” shall be completed. The Request for Dismissal shall state the reason(s) for recommending dismissal. Simply putting down “IOJ”, (Interest Of Justice), will not suffice as an explanation for dismissal. The officer must give a brief explanation for the recommended dismissal.

Upon completion, the Request for Dismissal shall be forwarded to the issuing officer’s supervisor for review and approval prior to the scheduled court date. If the officer’s immediate supervisor is not available the Administrative Sergeant can approve citation dismissals. Upon approval, the Request for Dismissal shall be forwarded to the appropriate Court.

Officers may not appear in court and then attempt to have a citation dismissed for IOJ when the citation could have been dismissed before the appearance.
Traffic Citations

516.4 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. "Void" and the reason for the void will be written on the white copy of the citation. All copies of the voided citation shall be presented to a supervisor, who will sign the white copy, to approve the voiding of the citation. The citation and copies shall then be forwarded to the Traffic Unit.

516.5 CORRECTION OF TRAFFIC CITATIONS
If changes or amendments to the original citation are required, the Traffic Unit will return the citation to the issuing employee for necessary changes on the “Notice of Correction and Proof of Service” form. The form will then be returned to the Traffic Unit for appropriate distribution to the Court and violator.

516.6 DISPOSITION OF TRAFFIC CITATIONS
The Traffic Unit will process all citations received. All pertinent data will be entered into the Citation module of the Records Management System:

(a) Original copies will be forwarded to the Court
(b) Pink copies will be filed in numerical sequence, in a locked file cabinet

A copy of the citation may be requested from the Traffic Unit when needed for court.

Upon separation from employment with the department, all employees issued traffic citation books shall return any unused citations to the Records Unit. When partially used books are returned to the Records Unit, the appropriate notation of the remaining citation numbers will be made on the original issuance line, after which the remaining citations can be placed back in the cabinet and reissued when necessary.

516.7 NOTICE OF PARKING VIOLATION APPEAL PROCEDURE
Disposition of notice of parking violation appeals is conducted pursuant to Vehicle Code § 40215.

516.7.1 APPEAL STAGES
Appeals may be pursued sequentially at three different levels (Vehicle Code § 40215; Vehicle Code § 40230):

(a) Administrative reviews are conducted by the issuing agency who will review written/documentary data. Requests for administrative reviews are available at the City of Modesto Finance Department, Customer Services Division, at 1010 10th Street or online at http://www.modestogov.com. 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 P.O. Box 3063, Modesto CA95353. There is no cost for an administrative review.

(b) If the appellant wishes to pursue the matter beyond administrative review, they must deposit the amount of the citation and request a Formal Hearing within 21 calendar
days from the postmark date of the results as required by State Law. If appellant is unable to deposit the amount of the citation, they may be eligible for an exemption. To determine if the appellant qualifies for the exemption, appellant needs to complete a Financial Evaluation Form and provide copies of all required documents for review. If appellant fails to meet the time frame prescribed by law, they will lose the option to contest the parking citation.

(c) If the appellant wishes to pursue the matter beyond a Formal Hearing, the appellant may seek a review by filing an appeal to be heard by the Stanislaus County Superior Court within 30 calendar days from the postmarked date of the Formal Hearing results. To request a civil review, appellant must contact the Parking Citation Processing Office at (209) 571-5140 or in person at 1010 10th street, Suite 2100. Appellant will be required to pay a $25.00 filing fee payable to Stanislaus County Superior Court. If the court renders a decision in the appellant’s favor, the parking violation penalty and the $25.00 filing fee will be refunded to the appellant.

516.7.2 TIME REQUIREMENTS
Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

(a) Requests for an administrative review must be postmarked within 21 calendar days of issuance of the notice of parking violation, or within 14 calendar days of the mailing of the Notice of Delinquent Parking Violation (Vehicle Code § 40215(a)).

(b) Requests for administrative hearings must be made no later than 21 calendar days following the notification mailing of the results of the administrative review (Vehicle Code § 40215(b)).

(c) An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to Vehicle Code § 40220 – 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).

516.8 LOST / STOLEN CITATIONS
Employees shall notify their supervisor, in writing, of any lost or stolen citations or citation books by the end of their shift. The memorandum shall include the details concerning the loss as well as all citation numbers involved. The supervisor receiving the information shall forward the memorandum through the chain of command to the Division Commander for review. Once reviewed, the memorandum shall be forwarded to the Traffic Unit, who will file it for accountability/documentation purposes.

516.9 REVISIONS
Adopted October 1, 2014

• Revised September 1, 2019
Disabled Vehicles

520.1 PURPOSE AND SCOPE
Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

520.2 OFFICER RESPONSIBILITY
When an on-duty officer observes a disabled vehicle on the roadway, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer to respond for assistance as soon as practical.

520.3 EXTENT OF ASSISTANCE
Officers should assist in the removal of stranded motorists from the roadway. Every effort should be made to remove the vehicle from the roadway to the nearest point of safety.

When a motorist is stranded, an officer should stay on scene until such time as the motorist determines they are safe and no longer in need of the officer’s assistance, or the subject is able to secure from the scene.

Any time a motorist is caught in a hazardous situation, officers should, if possible, direct or transport them to the nearest safe position.

Officers should provide emergency first aid when needed and/or arrange for emergency medical or fire response when appropriate.

520.3.1 MECHANICAL REPAIRS
Motorists requiring tow services and/or mechanical repair shall be advised that a tow service can be called for them. Department personnel shall not make mechanical repairs to a disabled vehicle. Dispatch will be requested to call the next listed rotation tow, or, at the motorist's request, a specific tow company. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

520.4 PUBLIC ACCESS TO THIS POLICY
This written policy is available upon request.
Abandoned and Illegally Parked Vehicles

524.1 PURPOSE AND SCOPE
This policy provides procedures for the marking, recording, and storage of vehicles parked in violation of the Modesto City Ordinance regulating 72-hour parking violations and abandoned vehicles under the authority of Vehicle Code § 22669.

524.2 MARKING VEHICLES
Initiating Officer shall:

(a) Check license and VIN through CLETS to ascertain registered owner information on vehicle.

(b) Abandoned vehicle warning sticker must be placed on windshield or conspicuous place on vehicle.

(c) Mark tires of vehicle as to tire position on pavement.

(d) Obtain case number and fill out Vehicle Report form.

(e) Do not turn in original report to Records Division until after the 72-hour or 10-day waiting period.

(f) Attempt to contact registered owner via registered letter during the 10-day waiting period to advise of situation and attempt to gain voluntary compliance.

(g) Document attempts to contact registered owner on original report.

(h) Indicate on original report if the vehicle was moved within the 72-hour or 10-day waiting period, and turn report into Records.

Parking citations for the 72-hour parking ordinance shall not be issued when the vehicle is stored for the 72-hour parking violation.

If a vehicle lacks an engine, transmission, wheels, tires, doors, windshield, or any part necessary to operate safely, the vehicle may be towed immediately under authority of Vehicle Code § 22669(d), and there is no need for the 72-hour or 10-day waiting period.

524.2.1 VEHICLE STORAGE
Any vehicle in violation shall be stored by the authorized towing service and a Vehicle Report (CHP form 180) shall be completed by the officer authorizing the storage of the vehicle.

(a) Check vehicle to ascertain if it has been driven.

(b) Complete inventory of vehicle and add information to original report form.

(c) Request a tow truck, via dispatch from the rotation list.

(d) Give tow truck driver yellow copy of vehicle report.
Abandoned and Illegally Parked Vehicles

The vehicle report form shall be submitted to the Records Unit immediately following the storage of the vehicle. It shall be the responsibility of the Records Unit to enter the vehicle into the Stolen Vehicle System (SVS) of the Department of Justice in Sacramento (Vehicle Code § 22851.3(b)). Entry may also be made to the National Law Enforcement Telecommunications System (NLETS) (Vehicle Code § 22854.5). Records will also forward appropriate copies to the Abandoned Vehicle Abatement Unit.

Within 48 hours of the storage of any such vehicle, excluding weekends and holidays, it shall be the responsibility of the Abandoned Vehicle Abatement Unit (AVA) 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).

524.2.2 ABANDONED VEHICLES ON NON-RESIDENTIAL PRIVATE PROPERTY, APARTMENT OR OTHER HOUSING COMPLEXES

It is the policy of the Modesto Police Department to request the owner or agent of such property to arrange for the removal (towing) of the vehicle.

If removal by the owner or agent cannot be completed, refer to Procedure PR 505.

524.2.3 ILLEGALLY PARKED VEHICLES ON COMMERCIAL PRIVATE PROPERTY

Officers handling such cases should determine if the vehicle is legally parked and if the property is posted properly in compliance with Section 22658(a) CVC or Section 3-2.1012 MMC. If the parking area is not posted properly, the reporting party (property owner or agent of property owner) should be advised how to properly post the property before any citations can be issued.

(a) No further action should be taken until property is properly posted.

(b) Complete a computer closure report indication information obtained and obtain a case number.

If the property is properly posted and the vehicle is deemed to be parked illegally, the vehicle can be cited after obtaining property owner’s or agent of property owner’s verbal request and signature on the citation. In order to cite:

(a) Property must be adequately posted;

(b) The vehicle must be parked illegally; and

(c) Property owner/agent must request the citation and countersign name.

Complete a computer closure report and indicate on the report the name, address, and telephone number of the reporting party in the event the citation is contested. If the property owner requests the vehicle be towed, the property owner should be advised that they could arrange to have the vehicle towed. As a courtesy, the property owner should be directed to the provisions of Vehicle Code Section 22658.
Chapter 6 - Investigation Operations
Investigation and Prosecution

600.1 POLICY
It is the policy of the Modesto 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.

600.2 INITIAL INVESTIGATION

600.2.1 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.

600.2.2 CIVILIAN MEMBER RESPONSIBILITIES
A civilian member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.
600.3 CUSTODIAL INTERROGATION REQUIREMENTS
Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

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

Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Investigative Services Division supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

600.3.2 MANDATORY RECORDING OF ADULTS
Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

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

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(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.
Investigation and Prosecution

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an officer, the individual being interrogated or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The Department shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

600.4 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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600.5 COMPUTERS AND DIGITAL EVIDENCE
The collection, preservation, transportation and storage of computers, cell phones and other
digital devices may require specialized handling to preserve the value of the related evidence. If
it is anticipated that computers or similar equipment will be seized, officers should request that
computer forensic examiners assist with seizing computers and related evidence. If a forensic
examiner is unavailable, officers should take reasonable steps to prepare for such seizure and
use the resources that are available.

600.6 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES
Use of social media and any other Internet source to access information for the purpose of criminal
investigation shall comply with applicable laws and policies regarding privacy, civil rights and
civil liberties. Information gathered via the Internet should only be accessed by members while
on-duty and for purposes related to the mission of this department. If a member encounters
information relevant to a criminal investigation while off-duty or while using his/her own equipment,
the member should note the dates, times and locations of the information and report the discovery
to his/her supervisor as soon as practicable. The member, or others who have been assigned to
do so, should attempt to replicate the finding when on-duty and using department equipment.
Information obtained via the Internet should not be archived or stored in any manner other
than department-established record keeping systems (see the Records Maintenance and Release
and the Criminal Organizations policies).

600.6.1 ACCESS RESTRICTIONS
Information that can be accessed from any department computer, without the need of an account,
password, email address, alias or other identifier (unrestricted websites), may be accessed and
used for legitimate investigative purposes without supervisory approval.

Accessing information from any Internet source that requires the use or creation of an account,
password, email address, alias or other identifier, or the use of nongovernment IP addresses,
requires supervisor approval prior to access. The supervisor will review the justification for
accessing the information and consult with legal counsel as necessary to identify any policy or
legal restrictions. Any such access and the supervisor approval shall be documented in the related
investigative report.

Accessing information that requires the use of a third party’s account or online identifier requires
supervisor approval and the consent of the third party. The consent must be voluntary and shall
be documented in the related investigative report.

Information gathered from any Internet source should be evaluated for its validity, authenticity,
accuracy and reliability. Corroborative evidence should be sought and documented in the related
investigative report.

Any information collected in furtherance of an investigation through an Internet source should be
documented in the related report. Documentation should include the source of information and
the dates and times that the information was gathered.
600.6.2 INTERCEPTING ELECTRONIC COMMUNICATION
Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

600.7 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY
The Investigative Services Division Commander is responsible for ensuring the following for cellular communications interception technology operations (Government Code § 53166):

(a) Security procedures are developed to protect information gathered through the use of the technology.

(b) A usage and privacy policy is developed that includes:
   1. The purposes for which using cellular communications interception technology and collecting information is authorized.
   2. Identification by job title or other designation of employees who are authorized to use or access information collected through the use of cellular communications interception technology.
   3. Training requirements necessary for those authorized employees.
   4. A description of how the Department will monitor the use of its cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws.
   5. Process and time period system audits.
   6. Identification of the existence of any memorandum of understanding or other agreement with any other local agency or other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.
   7. The purpose of, process for and restrictions on the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
   8. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall only use approved devices and usage shall be in compliance with department security procedures, the department’s usage and privacy procedures and all applicable laws.

600.8 MODIFICATION OF CHARGES FILED
Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Division Commander or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.
600.9 REVISIONS
Adopted October 1, 2016

- Revised August 1, 2016
- Revised January 1, 2017
- Revised August 1, 2018
- Revised May 1, 2021
Sexual Assault Investigations

602.1 PURPOSE AND SCOPE
The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Senior and Disability Victimization policies.

602.1.1 DEFINITIONS
Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

602.2 POLICY
It is the policy of the Modesto Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

602.3 QUALIFIED INVESTIGATORS
Qualified investigators will be assigned to conduct follow-up in all 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.
602.4 REPORTING
In all reported or suspected cases of sexual assault, supervisor notification shall be made and an available supervisor should respond to the scene to assist and evaluate the need for additional resources. A report should be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

602.5 VICTIM INTERVIEWS
The primary considerations in sexual assault investigations, which begin with the initial call to Stanislaus Regional 9-1-1, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim’s rights provisions, as outlined in the Victim and Witness Assistance Policy.

602.5.1 VICTIM RIGHTS
Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

(a) Advise the victim in writing of the right to have a victim advocate and a support person of the victim’s choosing present at any interview or contact by law enforcement, any other rights of a sexual assault victim pursuant to Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).

(b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).

1. The officer shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).

2. A support person may be excluded from the examination by the officer or the medical provider if his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2).
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602.5.2 VICTIM CONFIDENTIALITY
Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim’s parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim’s parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

602.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE
Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

602.6.1 COLLECTION AND TESTING REQUIREMENTS
Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a SAFE kit submitted to a private laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to update the status every 120 days thereafter until the evidence has been analyzed or the statute of limitations has run (Penal Code § 680.3).
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If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

602.6.2 DNA TEST RESULTS
A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

(a) Upon receipt of a written request from a sexual assault victim or the victim’s authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim’s case (Penal Code § 680).

1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

2. Absent a written request, no member of this department is required to, but may, communicate with the victim or the victim’s authorized designee regarding the status of any DNA testing.

(b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights (Penal Code § 680):

1. To be informed if a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.

2. To be informed if there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.

3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank of case evidence.

(c) Provided that the sexual assault victim or the victim’s authorized designee has kept the assigned officer informed with regard to current address, telephone number and email address (if available), any victim or the victim’s authorized designee shall, upon request, be advised of any known significant changes regarding the victim’s case (Penal Code § 680).
Sexual Assault Investigations

1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.

2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

602.6.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT
The Evidence and Property supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

602.7 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 Investigative Services Division supervisor.

Classification of a sexual assault case as unfounded requires the Investigative Services Division supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

602.8 CASE REVIEW
The Investigative Services Division supervisor will ensure case dispositions are reviewed on a periodic basis using an identified group that is independent of the investigation process. The SART and/or victim advocates should be considered for involvement in this audit.

602.9 RELEASING INFORMATION TO THE PUBLIC
In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Custodian of Records should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

602.10 TRAINING
Subject to available resources, periodic training should be provided to:

(a) Members who are first responders. Training should include:

1. Initial response to sexual assaults.

2. Legal issues.
Sexual Assault Investigations

3. Victim advocacy.
4. Victim’s response to trauma.
5. Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).

(b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:
1. Interviewing sexual assault victims.
2. SART.
3. Medical and legal aspects of sexual assault investigations.
4. Serial crimes investigations.
5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
6. Techniques for communicating with victims to minimize trauma.

602.11 REVISIONS
Adopted October 1, 2014

- Revised August 1, 2016
- Revised January 1, 2017
- Revised May 1, 2017
- Revised April 1, 2018
- Revised July 1, 2018
- Revised February 1, 2019
- Revised February 1, 2020
- Revised May 1, 2021
Asset Forfeiture

606.1 PURPOSE AND SCOPE
This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

606.1.1 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 Modesto Police Department seizes property for forfeiture or when the Modesto 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 Officer** - Asset Forfeiture Officer is the person designated to conduct the asset forfeiture investigation at the time of seizure.

**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 (Health 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.

(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.

606.2 POLICY
The Modesto 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 Modesto 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.

606.3 ASSET FORFEITURE PROCEDURE
When an Officer makes an arrest for one of the listed drug trafficking offenses (Health & Safety §§ 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, 11383) and believes there are assets which are subject to seizure, should before seizing any currency (must be at least $1,000 to be seized), vehicle or personal property pursuant to Health & Safety Code § 11470, contact a supervisor. The following guidelines will be observed:

(a) The approving supervisor should determine the necessity to call out Asset Forfeiture Investigators or MNET personnel. A consult with an Investigative Services Division (MNET) supervisor is recommended for all seizures.

(b) The approving supervisor shall assign a separate officer as the Asset Forfeiture Officer to investigate the asset seizure portion of the case.

(c) The Asset Forfeiture Officer will contact the District Attorney’s Office. During office hours, the Asset Forfeiture Officer will contact the designated Asset Forfeiture Deputy District Attorney and request approval to initiate Asset Forfeiture proceedings. If the pending seizure occurs after business hours, the Asset Forfeiture Officer shall contact...
the on-call homicide District Attorney. The contact numbers for the District Attorney’s Office are:

Normal business hours: (209) 525-5550 - On-call Deputy District Attorney: (209) 652-1296. If the contact number for after-hours is not successful, the Asset Forfeiture Officer should contact Dispatch for updated information.

The Asset Forfeiture Officer will provide a factual summary of the case and the nexus between the items requesting to be seized and the requisite criminal violation.

(d) Upon approval of the Asset Forfeiture or on-call homicide Deputy District Attorney to initiate asset forfeiture proceedings, the Asset Forfeiture Officer will serve all persons with the pink copies of the Notice of Initiation of Asset Forfeiture Proceedings, the Modesto Police Department Asset Forfeiture Property Receipt and Claim Opposing Forfeiture (MC-200) forms. A Disclaimer of Ownership (English/Spanish) form will be completed on all persons disclaiming ownership of currency, vehicle or property seized.

The Asset Forfeiture Officer will indicate the name of the Deputy District Attorney who initiated the asset forfeiture proceedings, including the date and time they were contacted on both the Notice of Initiation of Asset Forfeiture Proceedings form and in their investigative report.

(e) A copy of all reports and all applicable asset forfeiture paperwork must be forwarded to the Asset Forfeiture Detective in the Investigative Services Division for review, within 15 days of the seizure. This will be accomplished by submitting the white and yellow copies of the Modesto Police Department Asset Forfeiture Receipt, the Notice of Initiation of Asset Forfeiture Proceedings, Disclaimer of Ownership, and investigative reports to the Records Division.

(f) Interview all persons involved concerning their possession of the seized assets, financial situation, employment, income and other resources. The interviewing officer will follow current case law when interviewing subjects in custody associated with asset forfeiture investigations.

(g) Attempt to promptly determine all lien holders or all persons who may have a legal interest in the seized currency, vehicle or property for further contact, investigation and notification.

(h) The seizure of assets subject to forfeiture is a civil proceeding filed through the county of origin, Office of the District Attorney Forfeiture Unit or Narcotic Enforcement Team.

The above procedure applies to all items subject to seizure outlined in 606.3.1, 606.3.2, 606.3.3 and 606.3.4.
606.3.1 SEIZED PROPERTY
Property seized subject to forfeiture will be inventoried and booked into Property. The property will be checked through the Automated Property System to determine if the property has been stolen. The property will be booked as evidence, with a check mark in the Asset Seizure check box. 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.

606.3.2 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).

606.3.3 SEIZED VEHICLES
Vehicles seized subject to forfeiture will be towed or driven to the Modesto Police Department storage lot until the Asset Forfeiture Detective or Traffic Unit determines where the vehicle is to be stored. A seized vehicle should not be impounded. The officer seizing the vehicle shall notify a supervisor of the seizure of the vehicle and circumstances of the seizure as soon as possible.

Personal property located in a seized vehicle shall be removed and booked into Property as either evidence or for safekeeping.

606.3.4 BANK ACCOUNTS
Prior to obtaining a court order to seize bank accounts, the Asset Forfeiture Officer will provide a factual summary of the case and the nexus between the account(s) requesting to be seized and the requisite criminal violation. Upon approval of the Asset Forfeiture Deputy District Attorney to initiate asset forfeiture proceedings, the Asset Forfeiture Officer will complete the required court orders to seize the account and its balance(s). Any checks drawn from seized bank accounts should be made payable to "City of Modesto”. Checks made payable to "City of Modesto" that are subject to asset forfeiture will be booked in the same manner as currency. Checks subject to asset forfeiture will be booked into Evidence, utilizing a money envelope.
Asset Forfeiture

Once the check(s) are booked into Evidence, the Asset Forfeiture Officer will serve the interested party/parties with the Notice of Initiation of Asset Forfeiture Proceedings form, Asset Forfeiture Property Receipt and the Claim Opposing Forfeiture (MC-200) forms. The Asset Forfeiture Officer will indicate the name of the Asset Forfeiture Deputy District Attorney who initiated the Asset Forfeiture proceedings, including the date and time they were contacted, on both the Notice of Asset Forfeiture Proceeding form and in their investigative report.

606.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS
When property or cash subject to this policy is seized, the officer making the seizure should ensure compliance with the following:

(a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.

(b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.

(c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with the notation in the comment section of the property form, “Seized Subject to Forfeiture.” Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

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.

606.5 MAINTAINING SEIZED PROPERTY
The Evidence and Property 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.

606.6 FORFEITURE REVIEWER
The Chief of Police will appoint an officer as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a department-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

(a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.

(b) Serving as the liaison between the Department and the forfeiture counsel and ensuring prompt legal review of all seizures.

(c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.

(d) Ensuring that property seized under state law is not referred or otherwise transferred to a federal agency seeking the property for federal forfeiture as prohibited by Health and Safety Code § 11471.2.

(e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.

(f) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form, Asset Forfeiture Questionnaire form, and the Claim Opposing forms. 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 or check received is deposited with the fiscal agent.
7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
8. Current minimum forfeiture thresholds are communicated appropriately to officers.
9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.

(i) Ensuring that a written plan that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.

(j) Ensuring that the process of selling or adding forfeited property to the department’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 (Health and Safety Code § 11469).

(l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Health 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).
Asset Forfeiture

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).

606.7 ASSET FORFEITURE LOG
A computerized inventory of all asset forfeiture cases shall be kept in the Investigative Services Division. The inventory shall include the following:

- Case Number
- Date of seizure
- Value
- Type of seizure (federal or state)
- Status of the seizure

Information maintained on the log will be provided to the Chief of Police or authorized staff, as requested.

606.7.1 RECEIVING EQUITABLE SHARES
When participating in a joint investigation with a federal agency, the Modesto Police Department shall not receive an equitable share from the federal agency of all or a portion of the forfeiture proceeds absent either a required conviction under Health and Safety Code § 11471.2 or the flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of $40,000 or more.

606.8 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).

606.9 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).
606.10 REVISIONS
Adopted October 1, 2014

- Revised March 1, 2017
Informants

608.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidelines for the use of informants.

608.1.1 DEFINITIONS
Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the Modesto Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Modesto Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

608.2 POLICY
The Modesto Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

608.3 GUIDELINES FOR HANDLING INFORMANTS
All confidential informants are required to sign and abide by the provisions of the Modesto Police Department Informant Guidelines contract and/or a Modesto Police Department Cooperative Source Agreement. The officer using the confidential informant shall discuss each of the provisions of the agreement with the confidential informant. Details of the agreement are to be approved in writing by the unit supervisor before being finalized with the confidential informant.

608.3.1 RELATIONSHIPS WITH INFORMANTS
No member of the Modesto Police Department shall knowingly maintain a social relationship with a confidential informant while off duty, or otherwise become intimately involved with a confidential informant. Members of the Modesto Police Department shall neither solicit nor accept gratuities nor engage in any private business transaction with a confidential informant.

To maintain officer/informant integrity, the following must be adhered to:

(a) Officers shall not withhold the identity of an informant from their superiors
(b) Identities of informants shall otherwise be kept confidential
(c) Criminal activity by informants shall not be condoned
(d) Informants shall be told they are not acting as police officers, employees or agents of the Modesto Police Department, and that they shall not represent themselves as such
(e) The relationship between officers and informants shall always be ethical and professional
(f) Social contact shall be avoided unless necessary to conduct an official investigation, and only with prior approval of the officer’s immediate supervisor and Lieutenant
Informants

(g) Officers shall not meet with informants alone and will always have another officer with them.

(h) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

(i) Officers will select all meeting locations and not allow the informant to dictate meeting locations.

(j) All searches of an informant should be done with at least two officers present. Anything other than a cursory search of an informant should be conducted by an officer/CSO of the same sex as the informant.

608.4 USE OF INFORMANTS

608.4.1 INITIAL APPROVAL
Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

608.4.2 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

608.4.3 INFORMANT AGREEMENTS
All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

608.5 INFORMANT INTEGRITY
To maintain the integrity of the informant process, the following must be adhered to:
Informants

(a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Division Commander, MNET 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 Modesto Police Department, and that they shall not represent themselves as such.

(d) The relationship between department members and informants shall always be ethical and professional.

1. Members shall not become intimately involved with an informant.

2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the MNET supervisor.

3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.

(e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the MNET supervisor.

(f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.

(g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.

(h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

608.5.1 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. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file “unsuitable” when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

(a) The informant has provided untruthful or unreliable information in the past.

(b) The informant behaves in a way that may endanger the safety of an officer.

(c) The informant reveals to suspects the identity of an officer or the existence of an investigation.
(d) The informant appears to be using his/her affiliation with this department to further criminal objectives.

(e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.

(f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.

(g) The informant commits criminal acts subsequent to entering into an informant agreement.

608.6 INFORMANT FILES
A master file for all informants used by the Modesto Police Department will be maintained by the Investigative Division Commander, or his/her designee, in a locked filing cabinet. The Investigative Division Commander shall control access to these files. Any release of informant information must be authorized by the Investigative Division Commander or his/her designee prior to its release. The controlling officer shall be notified prior to any release of informant information. A separate file shall be maintained on each confidential informant.

608.6.1 FILE SYSTEM PROCEDURE
A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. The officer/detective working with the informant shall assemble and/or complete the following documents and give to the Investigative Division Commander or his/her designee; the following information shall be prepared for each file:

(a) Name and aliases

(b) Date of birth

(c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features

(d) Photograph

(e) Current home address and telephone numbers

(f) Current employers, positions, addresses and telephone numbers

(g) Vehicles owned and registration information

(h) 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.

(i) Name of the officer initiating use of the informant

(j) Signed informant agreement

(k) Update on active or inactive status of informant
608.7 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

All payments made to an informant shall be first authorized by the controlling officer's supervisor and are subject to the approval of the Chief of Police.

608.7.1 PAYMENT PROCESS
The Investigative Services Division Fund may be used to make payments to informants for services rendered. All policies regarding the ISD Fund will be followed. An "ISD Funds Disbursement Report" will be completed for each payment made to an informant and will include the case number for the case generated by the informant, the justification for the payment, the informant's signature, the signature of a witness to the payment, and the signature of the officer's supervisor. The Chief of Police and the City Manager's signatures are required for payments over $500. The form will be kept in the confidential informant's file.

If the payment amount exceeds $500.00, a complete written statement of the confidential informant's involvement in the case shall be placed in the confidential informant's file. This statement shall be signed by the confidential informant verifying the statement as a true summary of his/her actions in the case(s).

608.7.2 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.

608.7.3 AUDIT OF PAYMENTS
The MNET 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.

608.8 REVISIONS
Adopted October 1, 2014

- Revised November 1, 2016
- Revised July 1, 2018
- Revised August 1, 2018
Eyewitness Identification

610.1 PURPOSE AND SCOPE
This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (Penal Code § 859.7).

610.1.1 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.

610.2 POLICY
The Modesto 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.

610.3 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.

610.4 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.
Eyewitness Identification

- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures (Penal Code § 859.7).

610.5 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.

610.5.1 PROCEDURE
For additional information and guidelines, refer to Procedure PR611.

610.5.2 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).

610.5.3 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).

610.6 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.

610.6.1 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 that may validate or invalidate an eyewitness’ identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

610.7 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.
Eyewitness Identification

(g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

(h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

610.8 REVISIONS
Adopted October 1, 2014

• Revised October 1, 2016
• Revised April 1, 2020
Brady Material Disclosure

612.1 PURPOSE AND SCOPE
This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “Brady information”) to a prosecuting attorney.

612.1.1 DEFINITIONS
Definitions related to this policy include:

Brady information - Information known or possessed by the Modesto Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

612.2 POLICY
The Modesto 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 Modesto Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

612.3 DISCLOSURE OF INVESTIGATIVE INFORMATION
Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor’s office.

If information is believed to be privileged or confidential (e.g., confidential informant or attorney-client information, attorney work product), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

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

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.
612.4 DISCLOSURE OF PERSONNEL INFORMATION
Whenever it is determined that *Brady* information is located in the personnel file of a member of this department who is a material witness in a criminal case, the following procedure shall apply:

(a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the officer’s personnel file.

(b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in-camera review by the court.

(c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.

(d) The Custodian of Records shall accompany all relevant files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.

(e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

612.5 INVESTIGATING BRADY ISSUES
If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

612.6 TRAINING
Department members should receive periodic training on the requirements of this policy.

612.7 REVISIONS
Adopted October 1, 2014

- Revised December 1, 2020
Unmanned Aerial Vehicle (UAV) Operations

613.1 PURPOSE AND SCOPE
The purpose of this policy is to establish guidelines for the use of an unmanned aerial vehicle (UAV) and for the storage, retrieval and dissemination of images and data captured by the UAV.

613.1.1 DEFINITIONS
Definitions related to this policy include:

**Unmanned Aerial System (UAS)** - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

613.2 POLICY
Unmanned aerial vehicles may be utilized to enhance the department’s mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAV will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations, and Modesto Police Department policy.

613.3 PRIVACY
The use of a UAV potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAV operations.

613.4 PROGRAM COORDINATOR
The Operations Division Commander or his/her designee is the program coordinator who will be responsible for the management of the UAV program. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Ensuring that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies and procedures regarding use of the UAV.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAV, including urgent requests made during ongoing or emerging incidents.
Deployment of a UAV may require review by the Program Coordinator or the authorized designee, depending on the type of mission.

- Developing protocol for conducting criminal investigations involving a UAV, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAV deployment.
- Developing an operational protocol governing the deployment and operation of a UAV including, but not limited to, safety oversight, use of visual observers, establishment of lost link procedures and communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAV inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAV, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAV.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports to the Program Coordinator.

**613.5 USE OF UAV**

Only authorized operators who have completed the required training shall be permitted to operate the UAV.

UAV operations should only be conducted in accordance with the Modesto Police Department's FAA Certificate of Authorization.

UAV deployment will be considered when an aerial view would assist officers or incident commanders during the following occurrences:

- Accident Investigations
- Missing Persons Investigations
- Search and Rescue Operations
- Drug Investigations
- Fires
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- Disaster Management
- Crowd Control Situations
- Explosive Ordnance Disposal
- CBRNE Incident (chemical, biological, radiological, nuclear, and explosives)
- Crime Scenes
- Supporting criminal investigations
- VIP Security Support
- Perimeter Searches and Security
- Enhance Situational Awareness
- Routine Training

613.6 PROHIBITED USE
The UAV video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAV shall not be weaponized.

613.7 RETENTION OF UAV DATA
Data collected by the UAV shall be retained as provided in the established records retention schedule, Procedure PR 803.

613.8 REVISIONS
Adopted August 1, 2016

- Revised August 1, 2020
Warrant Service

614.1 PURPOSE AND SCOPE
This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the High Risk Missions Policy (Policy 304), which has additional guidance on planning and serving warrants.

614.2 POLICY
It is the policy of the Modesto Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

614.3 SUPERVISOR RESPONSIBILITIES
The unit supervisor (see the High Risk Missions Policy) shall review the operations plan and risk assessment matrix with the involved officer to determine the risk level of the warrant service.

614.4 SEARCH WARRANTS
Officers/Detectives should receive authorization from a supervisor before preparing a search warrant and search warrant affidavit. He/she will also complete an operations plan and risk assessment matrix and submit it, along with the warrant affidavit, to the appropriate unit supervisor (see the High Risk Missions Policy).

614.5 WARRANT PREPARATION
An officer/detective who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

(a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.

(b) A clear explanation of the affiant’s training, experience and relevant education.

(c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.

(d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
(e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.

(f) A specific description of the location to be searched, including photographs of the location, if reasonably available.

(g) A sufficient description of the items to be seized.

(h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

614.6 SEARCH WARRANT SERVICE
Refer to the High Risk Missions Policy for details regarding the service of search/arrest warrants and high risk missions.

614.7 DETentions DURING WARRANT SERVICE
Officers/Detectives 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.

614.8 ACTIONS AFTER WARRANT SERVICE
Supervisors shall ensure that the investigating detective/officer files all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge within the 10-day requirement per Penal Code § 1534(a).

614.9 OUTSIDE AGENCY WARRANTS
Refer to the High Risk Missions Policy (Policy 304) for details regarding assisting outside agencies.

614.10 REVISIONS
Adopted March 1, 2017
Chapter 7 - Equipment
Department Owned and Personal Property

700.1 PURPOSE AND SCOPE
Department employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or department property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

700.2 ISSUANCE OF DEPARTMENTAL PROPERTY
When a new employee begins work with the Department, it will be the responsibility of the Training Sergeant and/or his/her designee to make sure the employee receives all of their department issued equipment. The Training Sergeant, and/or his/her designee, shall utilize the Employee Equipment Issuance Form to ensure all equipment is issued and documented. Employees will initial the Employee Equipment Issuance Form in the appropriate areas to acknowledge receipt of the equipment received. The form will be routed to the Property & Evidence unit to be retained in the equipment files.

(a) Employees shall not alter or modify agency equipment that would affect its operability without prior Division Commander approval.

Exception: The employee may attach their name to the equipment for individual identification purposes.

700.3 CARE OF DEPARTMENTAL PROPERTY
Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of department property assigned or entrusted to them. An employee’s intentional or negligent abuse or misuse of department property may lead to discipline up to, and including, termination.

(a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any department issued property or equipment assigned for their use. Equipment that is damaged intentionally (such as legal intervention with patrol cars), or unintentionally, shall require the employee responsible for such equipment to complete a Damaged Equipment form. This form will be given to the employee’s direct supervisor who will route it through the chain of command. If the responsible employee cannot complete the form due to injuries, hospitalization, or other circumstances, the direct supervisor shall complete the form with the best information available to him/her at that time.

(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. Department vehicles that require repairs shall be taken out of service and a Vehicle Deficiency form shall be filled out by the employee responsible for the vehicle.

(c) Except when otherwise directed by competent authority or required by exigent circumstances, department property shall only be used by those to whom it was
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assigned. Use should be limited to official purposes and in the capacity for which it was designed.

(d) Department property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority. It is recognized that consumable supplies provided by the Department will be readily accessible by employees for appropriate use and disposed of after they are no longer usable. With the exception of consumable supplies, all proper documentation shall be completed for the equipment being disposed of. Unserviceable equipment that is worn out through normal wear may be disposed of, via the Property & Evidence Unit, at the discretion of the Property & Evidence Supervisor. Equipment that is deemed unserviceable through normal wear can be turned into the Property & Evidence Unit for replacement and will not require a formal report. (consumable supplies include, but are not limited to, items such as pens, paper, flex cuffs, latex gloves, empty or expired pepper spray cans, etc.).

(e) In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property other than equipment items such as flashlight bulbs, battery replacement, or other items that would not normally require professional technical expertise or knowledge to conduct such repairs.

700.4 FILING CLAIMS FOR PERSONAL PROPERTY
Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Division Commander, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor’s report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police, and/or his/her designee, who will then forward the claim to the Finance Department. Replacement value of damaged property may be prorated based upon the age and wear on the item prior to it being damaged.

The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

700.4.1 REPORTING REQUIREMENT
A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made. At minimum, a Modesto Police Damaged Equipment form shall be completed by the employee and submitted to his/her supervisor. Other official police reports may require completion, such as collision investigation reports, in addition to the Damaged Equipment report.
700.5 LOSS OR DAMAGE OF PROPERTY OF ANOTHER
Officers and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

(a) A verbal report shall be made to the employee’s immediate supervisor as soon as circumstances permit.

(b) A written report shall be submitted before the employee goes off duty within the time frame directed by the supervisor to whom the verbal report is made.

(c) When circumstances provide, or warrant it, the owner of the property should be notified and provided with a case number or instructions on how to file a claim for reimbursement.

700.5.1 DAMAGE BY PERSON OF ANOTHER AGENCY
If employees of another jurisdiction cause damage to real or personal property belonging to the City, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor’s written report, shall promptly be forwarded to the appropriate Division Commander.

700.6 RETURN OF DEPARTMENT EQUIPMENT
Upon notification that an employee is separating from the Department, the Training Sergeant and/or his/her designee will request the Evidence & Property Unit forward the Employee Equipment Issuance form, and any other equipment issuance paperwork they have in file to the Training Unit for out-processing.

(a) It is the responsibility of the employee’s immediate supervisor to ensure that the employee makes an appointment with the Training Sergeant and/or his/her designee to return all issued equipment and uniform items. The Training Unit Sergeant and/or his/her designee shall ensure that all equipment is returned and accounted for before the Employee Equipment Issuance form is signed off.

(b) The Training Sergeant shall forward the signed off, completed Employment Equipment Issuance form, along with any other documentation, to the Executive Assistant of the Chief of Police for placement in the employee’s personnel file.

(c) If the employee’s separation from the Department occurs when the Training Sergeant and/or his/her designee is not available, it will be the responsibility of the Watch Commander or his/her designee, to secure the items in an evidence bin, or other secure area, until they can be returned to the Training Unit for proper disbursement and documentation.
(d) Any employee, or former employee, who does not return Modesto Police Department issued equipment or property, or account for its loss, may be subject to criminal and/or civil action.

700.7 SPECIALIZED EQUIPMENT

It is the responsibility of specialized unit commanders and/or supervisors to maintain operational readiness and inventory control of Department equipment provided to those units for use by employees working within those units. Commanders and/or supervisors shall conduct inventory audits and inspections annually to ensure the equipment is present and in operational condition.

Unit commanders/supervisors shall follow the damaged or lost equipment protocols should any specialized unit equipment be damaged or lost.

(a) Any specialized equipment assigned to the Operations Division Watch Commanders shall be secured in the Watch Commander’s office. Occasionally, officers assigned to patrol functions may request the use of specialized equipment available from Watch Commanders. Equipment such as night vision goggles, thermal imagers, or other equipment that may be available to Watch Commanders or patrol supervisors can be issued out for temporary use. Any temporary equipment issued by Watch Commanders or patrol supervisors shall be returned to the Watch Commander’s office at the end of shift. The supervisor that issued the equipment will be responsible to ensure that it is returned at the end of shift by the employee who used it. The Assistant Operations Commander shall maintain an inventory list of temporary equipment available to Watch Commanders.

The Assistant Operations Commander shall conduct an annual audit of the equipment to ensure it is present and operational. If any temporary equipment is damaged or lost, the normal protocols shall be followed for reporting it. The Assistant Operations Commander shall be notified by the responsible supervisor of any damaged or lost temporarily issued equipment so the appropriate inventory notations may be made.

700.8 TRAFFIC UNIT HELMETS

Officers assigned to ride a Police Motorcycle are issued a DOT approved motorcycle helmet. Department issued motorcycle helmets shall be inspected by the assigned Officer on a daily basis for any significant damage. **Significant damage would include:**

(a) Damage from an impact

(b) Chipped, damaged, or cracked shell or liner

(c) Loose or frayed chin strap

Other conditions that occur from everyday use can result in circumstances in which the helmet should be considered for replacement. **These noteworthy conditions include:**

(a) The synthetic foam padding displays signs of heavy use & the helmet feels too loose

(b) Significant white scratches can be seen on surfaces with black paint
If damage of this type is noted, the Traffic Sergeant should be notified immediately. The Traffic Sergeant will inspect motorcycle officer helmets on a regular basis and will further examine any helmet identified under the above listed circumstances for consideration of replacement. The Traffic Sergeant will follow Request for Purchase and Damaged Equipment reporting protocols when replacing MPD motorcycle helmets.
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 Modesto Police Department allows employees 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-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

702.3 PRIVACY POLICY
Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or -funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-issued PCDs that have been used to conduct department-related business. Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct and, as practicable, will be done in the presence of the affected employee.
Personal Communication Devices

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 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 an employee’s assignment and the needs of the position, the Department may, at its discretion, issue a PCD. Department-issued PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

702.5 PERSONALLY OWNED PCD
Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

(a) Carrying a personally owned PCD is a privilege, not a right.

(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 employee’s expense.

(d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications).

(e) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.

702.6 USE OF PERSONAL COMMUNICATION DEVICES
The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

(a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.

(b) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Employees shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
Personal Communication Devices

(c) Employees may use a PCD to communicate with other personnel in situations where the use of the radio is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.

(d) Officers are prohibited from taking pictures, video or making audio recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.

(e) Employees will not access social networking sites for any purpose that is not official department business.

(f) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor.

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 REVISIONS

Adopted October 1, 2014
Personal Communication Devices

- Revised April 1, 2020
Vehicle Maintenance

704.1 PURPOSE AND SCOPE
Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

704.2 DEFECTIVE VEHICLES
When a department vehicle becomes inoperative or in need of repair that affects the 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.

704.3 VEHICLE EQUIPMENT
Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

704.3.1 PATROL VEHICLES
Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present in the vehicle:

- 20 Emergency road flares
- 1 Roll Crime Scene Barricade Tape
- 1 First aid kit, CPR mask
- 1 Blanket
- Protective gloves
- 1 Sharps container
- 1 Hazardous waste disposal bag
- 1 Hazardous Materials Emergency Response Handbook

704.4 VEHICLE REFUELING
Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled at either a Boyett or Pacific Pride location. Vehicles must be refueled at the end of shift if less than three-quarter tank of fuel.

704.5 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.
Vehicle Maintenance

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.

704.6 CIVILIAN EMPLOYEE USE
Civilian employees using marked vehicles shall ensure all weapons are removed from vehicles before going into service. Civilian employees shall also prominently display the "out of service" placards or lightbar covers at all times. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.
Vehicle Use

706.1 PURPOSE AND SCOPE
This policy establishes a system of accountability to ensure City-owned vehicles are used appropriately. For the purposes of this policy, "City-owned" includes any vehicle owned, leased or rented by the City.

706.2 POLICY
The Department provides vehicles for official business use and may assign take-home vehicles based on its determination of operational efficiency, economic impact to the Department, tactical deployments and other considerations.

706.3 USE OF VEHICLES
City-owned vehicles shall only be used for official business and, when approved, for commuting to allow members to respond to department-related business outside their regular work hours.

Members shall not operate a City-owned vehicle at any time when impaired by drugs and/or alcohol.

Any member operating a vehicle equipped with a two-way communications radio, MDC and/or a GPS device shall ensure the devices are on and set to an audible volume whenever the vehicle is in operation.

706.3.1 SHIFT ASSIGNED VEHICLES
Members who use a fleet vehicle as part of their work assignment shall ensure that the vehicle is properly checked out and logged on the daily shift roster, according to current procedures, prior to taking it into service. If for any reason during the shift the vehicle is exchanged, the member shall ensure that the exchanged vehicle is likewise properly noted on the daily vehicle log.

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 the shift. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

706.3.2 UNSCHEDULED USE OF VEHICLES
Members utilizing a City-owned vehicle for any purpose other than their regularly assigned duties shall first notify the Watch Commander of the reason for use and a notation will be made on the shift roster indicating the operator’s name and vehicle number. This section does not apply to members permanently assigned an individual vehicle (e.g., command staff, detectives), who regularly use the vehicle on an unscheduled basis as part of their normal assignment.

706.3.3 UNMARKED VEHICLES
Except for use by the assigned member, unmarked units shall not be used without first obtaining approval from the supervisor of the unit to which the vehicle is assigned.
Vehicle Use

706.3.4 INVESTIGATIVE SERVICES DIVISION VEHICLES
Investigative Services Division vehicle use is restricted to investigative personnel during their assigned work hours unless approved by an Investigative Services Division supervisor. After-hours use of Investigative Services Division vehicles by members not assigned to the Investigative Services Division shall be recorded with the Watch Commander on the vehicle log.

706.3.5 AUTHORIZED PASSENGERS
Employees operating City-owned vehicles shall not permit persons other than City members or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as a passenger in their vehicle.

Employees assigned a department vehicle may transport non-city personnel in their vehicle while traveling to and from work. Employees considered "on-call" during their off hours may also transport non-city personnel in their department vehicle. "On Call" status will be determined by their Division Commander and defines that the employee will respond, not the mere possibility of a response.

706.3.6 PARKING
Except when responding to an emergency or other urgent official business requires otherwise, members driving City-owned vehicles should obey all parking regulations at all times.

City-owned vehicles should be parked in their assigned stalls. Members shall not park privately owned vehicles in any stall assigned to a City-owned vehicle or in any other areas of the parking lot that are not designated as a parking space unless authorized by a supervisor. Personal vehicles may park in areas designated for detective vehicles between the hours of 1800-0600. Privately owned motorcycles shall be parked in designated areas.

706.3.7 INSPECTIONS
The interior of any vehicle that has been used to transport any person other than a member should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting officer shall search all areas of the vehicle that are accessible by the person before and after the person is transported.

706.3.8 PRIVACY
All City-owned 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.

706.4 ASSIGNED VEHICLE AGREEMENT
Members who have been assigned a take-home vehicle may use the vehicle to commute to the workplace and for department-related business. The member must be approved for an assigned vehicle by his/her Division Commander and shall sign an agreement that includes the following criteria:
Vehicle Use

(a) The member must live within a 35-mile radius of his/her regularly assigned work location (based on average traffic flow). A longer response time may be permitted subject to Division Commander approval. Members who reside outside the permissible response time may be required to secure or garage the vehicle at a designated location or the central office at the discretion of the Division Commander.

(b) Except as may be provided by a memorandum of understanding time spent during normal commuting is not compensable.

(c) The vehicle assigned to a member may be used to drive from home to an assigned duty location and from there to home. The vehicle may be stopped en route to or from the duty assignment for minor personal necessities.

(d) The member may be responsible for the care and maintenance of the vehicle. The Department should provide necessary care and maintenance supplies.

(e) When at the member's residence, the vehicle should be parked inside of a garage, behind a fenced area, in the driveway, or legally parked in the street in front of the member's residence.

(f) Vehicles shall be locked when not attended.

(g) If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed from the interior of the vehicle and properly secured in the residence (see the Firearms and Qualification Policy regarding safe storage of firearms at home).

(h) When the member will be away (e.g., on vacation) for periods exceeding one week the vehicle shall be stored in a secure garage at the member's residence or at the appropriate department facility.

(i) All department identification, portable radios and equipment should be secured.

Members are cautioned that under federal and local tax rules, personal use of a City-owned vehicle may create an income tax liability to the member. Members should address questions regarding tax consequences to their tax adviser.

The assignment of vehicles is at the discretion of the Chief of Police. Assigned vehicles may be changed at any time and/or permission to take home a vehicle may be withdrawn at any time.

706.5 KEYS AND SECURITY

All uniformed field members approved to operate marked patrol vehicles should be issued a copy of the unit key as part of their initial equipment distribution upon hiring. Officers shall not duplicate keys.

Members assigned a permanent vehicle should be issued keys for their assigned vehicle.

The loss of any key shall be promptly reported in writing through the member's chain of command.
Vehicle Use

706.6 ENFORCEMENT ACTIONS
When driving an assigned vehicle to and from work outside of the jurisdiction of the Modesto Police Department, an officer should avoid becoming directly involved in enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions Policy and the Law Enforcement Authority Policy).

Officers may render public assistance (e.g., to a stranded motorist) when deemed prudent.

Officers shall, at all times while driving a marked City-owned vehicle, 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.

706.7 MAINTENANCE
Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles.

Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage. It is the assigned member’s responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.

Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with policy.

706.7.1 ACCESSORIES AND/OR MODIFICATIONS
No modifications, additions or removal of any equipment or accessories shall be made to the vehicle without written permission from the Division Commander.

706.8 VEHICLE DAMAGE, ABUSE AND MISUSE
When a City-owned vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see also Traffic Collision Reporting Policy).

When a collision involves a City vehicle or when a member of this department is an involved driver in a collision that occurs in this jurisdiction, and the collision results in serious injury or death, the supervisor should request that an outside law enforcement agency be summoned to investigate the collision.

The member involved in the collision shall complete the City’s vehicle collision form. If the member is unable to complete the form, the supervisor shall complete the form.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in a Damaged Equipment Report and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there is any vehicle abuse or misuse.
706.9 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges. To avoid unnecessary toll road charges, all members operating a City-owned vehicle upon the toll road shall adhere to the following:

(a) All members operating a City-owned vehicle 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) All members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Division Commander within five working days explaining the circumstances.
Armored Vehicles

707.1 PURPOSE AND SCOPE
This policy establishes a system of accountability to ensure City-owned armored vehicles are used appropriately. For the purpose of this policy a City-owned armored vehicle includes any vehicle designated by the SWAT team as rescue vehicles, armored surveillance vehicles, or vehicles obtained through the Federal Excess Property Program (10-33 program).

707.2 POLICY
The Department provides armored vehicles for SWAT deployments, Patrol Emergency operations, mutual aid assistance, and as a means of deterring crime.

707.3 USE OF VEHICLES
City-owned armored vehicles should only be used of official business, and when the need arises during emergency operations.

Members shall not operate a City-owned armored vehicle at any time when impaired by drugs and/or alcohol.

SWAT deployments are defined as any operation where the SWAT team deems it necessary to utilize the armored vehicle to gain a tactical advantage.

Patrol Emergencies are defined as any operation where members may need additional ballistic protection to safely bring an emergency situation to a peaceful resolution.

Mutual Aid is defined as an operation where an allied law enforcement agency is requesting assistance to help bring an emergency situation to a peaceful resolution.

A means of deterring crime is defined as an instance where an armored vehicle may be clearly marked as a police vehicle, and outfitted with surveillance cameras. The vehicle is then parked in crime ridden areas as a means of reducing and deterring crime.

707.4 ARMORED VEHICLES ASSIGNED TO SPECIALIZED UNITS
Units assigned to City-owned armored vehicles shall ensure the vehicle is properly checked prior to taking it into service. If for any reason during the shift the vehicle is damaged during the shift the member shall immediately notify the damage to their supervisor and document as appropriate.

707.5 UNSCHEDULED USE OF VEHICLES
Members utilizing City-owned armored vehicles for any purpose other than their regularly assigned duties shall notify the Watch Commander of the reason for use, and then notify the supervisor whose unit is assigned the armored vehicle.
Armored Vehicles

707.6 AUTHORIZED PASSENGERS
Employees operating a City-owned armored vehicle shall not permit persons other than City members or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as a passenger in their vehicle.

707.7 MAINTENANCE
City-owned armored vehicles assigned to specialized units are responsible for their cleanliness and overall maintenance. It is the unit supervisor’s responsibility to ensure that their assigned City-owned armored vehicle is maintained in accordance to the established service and maintenance schedule.

707.8 VEHICLE DAMAGE, ABUSE AND MISUSE
When a City-owned armored vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Traffic collision report shall be filed with the agency having justification.

When a collision involves a City vehicle or when a member of this department is an involved driver in a collision that occurs in this jurisdiction, and the collision results in serious injury or death, the supervisor should request that an outside law enforcement agency be summoned to investigate the collision.

The member involved shall complete the City’s vehicle collision form. If the member is unable to complete the form, the supervisor shall complete the form.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in a Damaged Equipment Report and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there is any vehicle abuse or misuse.

707.9 REVISIONS
Adopted February 1, 2017
Chapter 8 - Support Services
Crime and Intelligence Unit

800.1 PURPOSE AND SCOPE
The Crime and Intelligence Unit (CIU) responsibility is to collect, collate, corroborate, analyze and disseminate crime data and provide actionable intelligence to assist in the apprehension of criminals and the reduction of crime. Crime Analysts provide timely and useful information and intelligence to aid administrative, operational, and investigative personnel in meeting crime prevention objectives and Modesto Police Department (MPD) goals as well as, assisting with investigations involving criminals and criminal enterprises that threaten the safety to the community and our law enforcement partners. Crime Analysts are instrumental to the Department's strategic planning by providing estimates of future crime trends and assisting with enforcement priorities through intelligence cycles.

800.2 POLICY
It is the policy of MPD to plan and utilize CIU in a manner that is consistent with the department goals. CIU is a function that operates out of the Office of the Chief of Police. CIU is managed by a Lieutenant and supervised by a Senior Crime and Intelligence Analyst.

800.3 CRIME AND INTELLIGENCE UNIT PROCEDURE
Department members who desire support from CIU will route their request though the CIU Senior Crime Analyst. The CIU supervisor will evaluate the request and determine its priority based on CIU's direction and current workloads.

800.3.1 EMERGENCIES AND IN PROGRESS SERIOUS CRIMES
CIU members may be called upon to assist with emergencies and serious crimes. CIU Analysts should be ready to assist department personnel in these instances and utilize all available information and resources including but not limited to, the Real Time Crime Center (RTCC), command posts, and unit briefings to assist them.

800.4 CRIME AND INTELLIGENCE UNIT FUNCTION
The CIU function is centered on gathering intelligence from an administrative, strategic, and tactical methodology. This is accomplished through the use of multiple resources and processes including but not limited to:

- Crime trends and statistics
- Crime pattern recognition
- Crime series identification
- Threat assessment
- Link analysis and flow charts
- Charting and graphs
Crime and Intelligence Unit

- Time lines
- Crime mapping
- Cell phone analysis and mapping
- Intelligence cycles

800.5 DATA SOURCES
Data for Crime and Intelligence Analysis is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Briefings and debriefings
- Computer Aided Dispatch (CAD) data
- Evidence including but not limited to: indicia, pictures, videos, financial records, computer and telephone records
- Local, state, and federal agency information systems and reports
- Open source information
- Social media
- Other data resources available to law enforcement

800.6 CRIME ANALYSIS FACTORS
The following criteria should be used in collecting data for Crime and Intelligence Analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect and suspect vehicle descriptors
- Modus operandi
- Associates

800.7 CRIME AND INTELLIGENCE ANALYSIS DISSEMINATION
For CIU to function effectively, information and intelligence should be disseminated to the appropriate unit(s) or persons on a timely basis. When information pertains to investigative, tactical
Crime and Intelligence Unit

and strategic plans or investigations, it should be provided to all affected personnel. Information relevant to the development of strategic plans shall be provided to the appropriate staff.

800.8 CRIMINAL INTELLIGENCE AND INTELLIGENCE FILES
The department will maintain criminal intelligence files through Inform RMS. Members who believe they have received criminal intelligence are encouraged to submit an intelligence report through Inform RMS. Intelligence reports maintain an intelligence case number (I19-1234) and are routed directly to the CIU supervisor for review and approval. If the CIU supervisor believes the information meets the guidelines of criminal intelligence, the CIU supervisor will approve the intelligence report and maintain the report within the Inform RMS and the MPD Records Unit.

When necessary, the CIU supervisor will alert the appropriate unit supervisor responsible for investigating related criminal acts associated to the intelligence report. The unit supervisor will determine what, if any, follow up investigation is needed. Intelligence files maintained by MPD shall follow the guidelines of 28 CFR 23.20. MPD Policy 422 provides guidelines on maintaining criminal intelligence.

800.9 COMMUNITY DISSEMINATION
When approved by the CIU supervisor, Crime Analysts will work with the department's Public Information Officer (PIO) and the Crime Prevention Unit, (CPU) to release information, such as crime trends or crime patterns, to the community. CIU will not release information about active investigations without first seeking approval from the unit supervisor responsible for the coordinating the efforts of the investigation.

800.10 REVISIONS
Adopted October 1, 2014
- Revised March 1, 2019
Property and Evidence

804.1 PURPOSE AND SCOPE
This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

804.2 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.

804.3 PROPERTY HANDLING
Any employee who first comes into possession of any property shall retain such property in his/her possession until it is turned over to his/her designee or until properly tagged and placed in the designated property locker or storage room and entered into the RMS database. Or along with the property form, in the case of search warrants or homicides. 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 release of the property and who took possession of the property, shall be documented in the police report.

804.3.1 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) Enter the property in the RMS database 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.
Property and Evidence

(c) Print the barcode with case number, item number, date, description, and officer on the evidence item.

(d) Attach the completed evidence/property barcode tag to each package or envelope in which the property is stored.

(e) For search warrants and homicide cases, the original Evidence & Property Record form shall be placed in the basket in the officer's booking area near the temporary property lockers. The copy of the Evidence & Property record shall be submitted with the police report.

(f) When the property is too large to be placed in a locker, the item may be placed in one of the cages in the Evidence Annex, and the cage secured by padlocking. Complete RMS entries and print barcodes as mentioned above.

804.3.2 NARCOTICS, DANGEROUS DRUGS AND DRUG PARAPHERNALIA

All narcotics and dangerous drugs shall be booked separately. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

Needles and syringes shall not be booked into the Evidence & Property facility. They shall be digitally photographed and the photos stored per policy. The syringe shall be placed in a SHARPS container for destruction.

Glass drug pipes shall not be booked in the Evidence & Property facility unless needed for specific evidentiary purposes not related to the charge of possessing the item. Any evidence (e.g. residue) shall be removed from the pipe if needed for future court presentation. The pipe shall be digitally photographed and the photos stored per policy. The glass drug pipe shall be placed in a SHARPS container or clearly marked for destruction.

The officer seizing the narcotics and dangerous drugs shall place them in the designated locker.

804.3.3 EXPLOSIVES / FIREWORKS

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 shall not be booked into the Evidence & Property Facility.

Fireworks will be photographed. Photographs of the fireworks are to be placed into Evidence. The actual fireworks will be collected and disposed of by a Modesto Fire Department Arson Investigator. Officers will have Dispatch contact the on-duty Modesto Fire Department Arson Investigator, who will make arrangements for the proper disposal of the fireworks.

804.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:
Property and Evidence

(a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.

(b) License plates found not to be stolen or connected with a known crime, should be released directly to the Evidence & Property Technician, or placed in the designated container for return to the Department of Motor Vehicles. No formal property booking process is required.

(c) All bicycles shall be booked in the Evidence Annex with the hard copy of the Bicycle Report attached. Frame and/or serial numbers shall be recorded on the Bicycle Report.

(d) All cash shall be packaged separately from any other evidence in a Currency Envelope and deposited into evidence. Two MPD employees shall individually count all money, and then both employees will sign the sealed envelope verifying the total cash amount. This procedure shall be followed in every opening and resealing of any sealed Currency Envelope. The front of the Currency Envelope shall be completely filled out.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

804.3.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

(a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or

(b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or

(c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Property and Evidence Technician shall ensure Records is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Unit Policy).

804.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

(a) Narcotics and dangerous drugs
Property and Evidence

(b) Firearms (ensure they are unloaded and booked separately from ammunition)
(c) Property with more than one known owner
(d) Paraphernalia as described in Health and Safety Code § 11364
(e) Fireworks
(f) Contraband

804.4.1 PACKAGING CONTAINER
Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives. Needles and syringes shall not be booked into the Evidence & Property Facility. They shall be digitally photographed and the photos stored per policy. The syringe shall be placed in a SHARPS container for destruction.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

804.4.2 PACKAGING NARCOTICS
The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is turned over to his/her designee or until properly weighed, packaged, tagged, and placed in the designated drug bin. The total weight of the substance and the packaging, shall be listed in the description and in the appropriate field in the RMS database entry.

Narcotics and dangerous drugs submitted as evidence, shall be packaged in a DOJ drug envelope of appropriate size available in the officer's booking room. The booking officer shall seal the envelope with cellophane tape and initial and date across the tape seal. Narcotics and dangerous drugs shall not be packaged with other property. Found narcotics and dangerous drugs submitted for destruction shall be placed in a plain manila envelope. The total weight of the substance and the packaging, shall be listed in the description and in the appropriate RMS database field.

Large items not fitting in a DOJ drug envelope, shall be properly packaged with a property tag affixed to the outside of the packaging.

804.5 RECORDING OF PROPERTY
The Evidence & Property Technician receiving custody of evidence or property shall record his/her IBM number, the date and time the property was booked by the booking officer and where the property will be stored, within RMS.

Any changes in the location of property held by the Modesto Police Department shall be updated within RMS.

Refer to the Collection, Handling, Booking, Control, and Disposition of Evidence and Property Manual.
804.6 PROPERTY CONTROL
Each time the Evidence & Property Technician receives property or releases property to another person, he/she shall update this information in the Evidence & Property RMS database. Officers desiring property for court shall contact the Evidence & Property Technician at least one day prior to the court day.

804.6.1 RESPONSIBILITY OF OTHER PERSONNEL
Every time property is released or received, an appropriate entry in the Evidence & Property RMS database shall be completed to maintain the chain of evidence.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to Evidence & Property, or the ID Lab.

804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY
The transporting employee will check the evidence out of property, indicating the date and time in the Evidence and Property RMS database and the request for laboratory analysis.

The Evidence & Property Technician releasing the evidence must complete the required information in the Evidence and Property RMS database. The lab forms will be transported with the property to the examining laboratory.

804.6.3 STATUS OF PROPERTY
Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be entered in the Evidence & Property RMS database, indicating the date, time and to whom released.

The Evidence & Property 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 and Evidence or properly released to another authorized person or entity.

The return of the property should be recorded in the Evidence & Property RMS database.

804.6.4 AUTHORITY TO RELEASE PROPERTY
(a) The investigating officer, the assigned detective, or the investigator’s supervisor.
(b) Evidence/Property Specialist or the Evidence/Property Unit Supervisor
(c) Any member specifically authorized by the Chief of Police.
(d) A magistrate or the District Attorney. (Evidence staff shall also notify and obtain authorization by the investigating officer/detective before release.)

804.6.5 RELEASE OF PROPERTY
All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.
Release of property shall be made upon receipt of an authorization, listing the name of the person to whom the property is to be released. The release authorization must list the specific item(s) to be released. Release of all property shall be documented in the Evidence & Property database.

With the exception of firearms and other property specifically regulated by statute, found property shall be held for a minimum of 90 days. Property held for safekeeping shall be held for a minimum of 60 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 the 60 or 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.

An Evidence & Property Technician shall release the property upon acceptable valid photo identification (Any U.S. State driver’s license or ID card, any government photo ID, including Passport or Military ID, or any local government ID card) being presented by the owner for which an authorized release has been received. No other ID shall be accepted without supervisory approval. A signature of the person receiving the property shall be recorded on the property receipt. If some items of property have not been released the property form will remain with the Property & Evidence Unit. Upon release, the proper entry shall be documented on the Property report and within RMS.

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 Weapons Release Officer 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, ammunition, 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).

804.6.6 DISPUTED CLAIMS TO PROPERTY
Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).
**Property and Evidence**

**804.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS**
The Evidence and Property Unit will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364.

**804.6.8 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS**
Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the Property and Evidence Technician shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code 6389(g); Penal Code § 33855).

**804.6.9 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS**
Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

(a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.

(b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the Department 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.

**804.6.10 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 Modesto Police Department determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

**804.6.11 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION**
The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

**804.7 DISPOSITION OF PROPERTY**
All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property and Evidence Technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

**804.7.1 EXCEPTIONAL DISPOSITIONS**
The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

**804.7.2 UNCLAIMED MONEY**
If found or seized money is no longer required as evidence and remains unclaimed after three years, the Finance 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 be deposited into the general fund. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

804.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Evidence and Property 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 Investigative Services 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 Evidence and Property 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 Investigative Services 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 Investigative Services Division supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).
804.8 INSPECTIONS OF THE EVIDENCE ROOM

(a) On a monthly basis, the supervisor of the Evidence and Property Unit shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures. On a daily basis, Evidence and Property staff will confirm alarms in all evidence facilities and the vehicle storage lot are activated and functioning.

(b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.

(c) An annual audit of evidence held by the Department shall be conducted by a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with evidence control.

(d) An audit of property will occur whenever any person responsible for the property and evidence control function is assigned to or transferred from the position. The audit is conducted jointly by the newly designated property custodian and a designee of the police chief to ensure records are correct and property annotated. This includes a change in the Evidence & Property Unit Supervisor.

804.9 EVIDENCE CONTROL AND SECURITY

Only the following personnel are authorized entry into secured areas of the main Evidence & Property Facility and the property Annex:

(a) Evidence and Property Unit Supervisor

(b) Evidence & Property Unit full-time staff

(c) Part-time employees permanently assigned to the Evidence & Property Unit may have access to secured areas as needed and with permission of the Evidence & Property Unit Supervisor

(d) Volunteer staff assigned to the Evidence & Property Unit may have access to secured areas under proper supervision.

The following personnel may have access to the lobby and booking areas of the main Evidence & Property Facility and Annex, and may also have access to secured areas if necessary with supervisory approval, and when escorted by or within view of Evidence & Property staff. Access shall be recorded on a log located in the secured area. This log will contain the employee's name, the date and time, the Evidence & Property staff escort's name, and the reason for entry.

(a) Chief, assistant chiefs, captains, lieutenants, sergeants, detectives, police officers, ID technicians, CSOs, ACOs, reserve police officers, any member of the department designated to book evidence, fire investigators, and members of a task force represented by Modesto Police Department.

(b) Range Masters, SWAT, and Training Unit personnel may enter the facility to retrieve department ammunition

(c) Janitorial and maintenance personnel as necessary
Property and Evidence

(d) Authorized persons assigned to perform audits

(e) Persons requesting to meet with the Evidence & Property Supervisor may be escorted to the supervisor’s office.

If emergency conditions or unusual circumstances require someone other than authorized personnel to enter a secured area of the property facilities, a log entry shall be made. An emergency condition is defined as an immediacy which by its very nature would not allow prior verbal permission from authorized supervisory personnel.

Unusual circumstance is defined as any situation where entry is necessary and only with prior approval from an authorized supervisor.

An emergency entrance packet for emergency entry into the Evidence & Property Facility shall be maintained in the Watch Commander’s office, and shall remain sealed until needed. Within 24 hours after use, the information on the envelope shall be completed and all original contents forwarded to the Evidence & Property Unit Supervisor who will cancel the entrance codes, obtain new codes, and forward a new packet to the Watch Commander’s office.

The public shall only be allowed entry to the lobby of the main Evidence & Property Facility.

804.10 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
- Revised July 1, 2017
- Revised March 1, 2018
- Revised August 1, 2020
Records Unit Procedures

806.1 PURPOSE AND SCOPE
Police Civilian Supervisors shall maintain the Records Manual on a current basis to reflect the procedures being followed within the Records Unit. Policies and procedures that apply to all employees of this department are contained in this chapter.

806.1.1 NUMERICAL FILING SYSTEM
Case reports are filed numerically within the Records Unit by Records Unit personnel.

Reports are numbered commencing with MP, followed by the last two digits of the current year followed by a sequential number beginning with 000001 starting at midnight on the first day of January of each year. As an example, case number MPYY000001 would be the first new case beginning January 1 of a new year.

806.2 FILE ACCESS AND SECURITY
All reports including, but not limited to, initial, supplemental, follow-up, evidence, and all reports critical to a case shall be maintained in a secure area within the Records Unit accessible only to authorized Records Unit personnel.

The Records Unit is available 24 hours a day, seven days a week, 365 days per year.

Modesto Police Department employees shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether hard copy or electronic file format, except in accordance with department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law.

806.2.1 REQUESTING ORIGINAL REPORTS
Generally, original reports shall not be removed from the Records Unit. Should an original report be needed for any reason the requesting employee shall first obtain authorization from a Police Civilian Supervisor.

806.3 DETERMINATION OF FACTUAL INNOCENCE
In any case where a person has been arrested by officers of the Modesto Police Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Custodian of Records. The Custodian of Records 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 Custodian of Records should forward the petition to the Investigative Services Division, if applicable, and to the City Attorney for review. After such review and consultation with the City Attorney, the Custodian of Records shall decide whether a finding of factual innocence is appropriate.
Upon determination that a finding of factual innocence is appropriate, the Custodian of Records shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California Department of Justice and other law enforcement agencies (Penal Code § 851.8).

The Custodian of Records should respond to a petition with the Department’s decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

**806.4 ARREST WITHOUT FILING OF ACCUSATORY PLEADING**

The Police Civilian Manager should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Penal Code § 849.5; Penal Code § 851.6):

(a) The individual is issued a certificate describing the action as a detention.

(b) All references to an arrest are deleted from the arrest records of the Department and the record reflects only a detention.

(c) The Bureau of Criminal Identification and Investigation of the Department of Justice is notified.

**806.5 CONFIDENTIALITY**

Records Unit staff has access to information that may be confidential or sensitive in nature. Records Unit staff shall not access, view, or distribute, or allow anyone else to access, view, or distribute any record, file, or report, whether in hard copy or electronic file format, or any other confidential, protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Records Unit procedure manual.

**806.6 FILE ACCESS AND SECURITY**

The security of files in the Records Unit must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a police department case and publicly accessible logs, shall be maintained in a secure area within the Records Unit, accessible only by authorized members of the Records Unit.

**806.7 ORIGINAL CASE REPORTS**

Generally, original case reports shall not be removed from the Records Unit. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from the Police Civilian Supervisor.
806.8 REVISIONS
Adopted October 1, 2014

• Revised December 1, 2016
• Revised July 1, 2019
Restoration of Firearm Serial Numbers

808.1 PURPOSE AND SCOPE
The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

808.2 PROCEDURE
Any firearm coming into the possession of the Modesto Police Department as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

808.2.1 PROPERTY BOOKING PROCEDURE
Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

808.2.2 OFFICER RESPONSIBILITY
The Property Evidence Technician receiving a firearm when the serial number has been removed or obliterated shall notify the Identification Technicians so serial number restoration can be attempted. 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.

808.2.3 DOCUMENTATION
Chain of Custody shall be documented on the Evidence/Property Record. A Technical Services form will be completed by the Identification Technician documenting the attempted restoration of the firearm serial number.

808.2.4 FIREARM TRACE
After the serial number has been restored (or partially restored) by the Identification Technician, the Evidence & Property 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 have the data entered into the ATF eTrace system.
Records Maintenance and Release

810.1 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.

810.2 POLICY
The Modesto Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq.).

810.3 CUSTODIAN OF RECORDS RESPONSIBILITIES
The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

(a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.

(b) Maintaining and updating the department records retention schedule including:
   1. Identifying the minimum length of time the Department must keep records.
   2. Identifying the department division responsible for the original record.

(c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records (Government Code § 6253).

(d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.

(e) Establishing rules regarding the processing of subpoenas for the production of records.

(f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 6253).

(g) Determining how the department's website may be used to post public records in accordance with Government Code § 6253.

(h) Ensuring that all department current standards, policies, practices, operating procedures, and education and training materials are posted on the department website in accordance with Penal Code § 13650.

(i) Ensuring that public records posted on the Department website meet the requirements of Government Code § 6253.10 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.

(j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 6270.5) is publicly available upon request and posted in a prominent location on the Department’s website.
810.4 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.

810.4.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 6253).

The processing of requests for any record is subject to the following (Government Code § 6253):

(a) The Department is not required to create records that do not exist.

(b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 6254.30).

(c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.

1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 6253.1).

2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.

(d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 6253.9).

(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 (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

810.5 CALLS FOR SERVICE
The date, time, substance and location of all unrestricted complaints or requests for assistance (calls for service) are maintained in the Calls for Service binder, located at the Records front counter. The Calls for Service binder is readily available for public access during regular business hours. (Government Code § 6254(f)(2))

810.6 RELEASE RESTRICTIONS
Examples of release restrictions include:

(a) Personal identifying information, including an individual’s photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).

(b) Social Security numbers (Government Code § 6254.29).

(c) Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).

1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.

2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police, or as required by law.

(d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).
1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).

(e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 6254.4.5.

(f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 6254).

1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).

(g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, City Attorney, or the courts pursuant to Penal Code § 1054.5.

(h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).

(i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

(j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 6254).

(k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

(l) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 6254).
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(m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).

(n) Records relating to the security of the department’s electronic technology systems (Government Code § 6254.19).

(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 § 6254).

(q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

810.7 SUBPOENAS AND DISCOVERY REQUESTS
Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, 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.

810.8 RELEASED RECORDS TO BE MARKED
The first and last 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.

810.9 SEALED RECORD ORDERS
Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or
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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 Police Civilian 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.

810.9.1 SEALED JUVENILE ARREST RECORDS
Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Police Civilian 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).

810.10 SECURITY BREACHES
The Police Civilian Supervisor shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Department information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual’s first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
- Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual’s financial account
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology
- Unique biometric data
810.10.1 FORM OF NOTICE

(a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:

1. The date of the notice.
2. Name and contact information for the Modesto 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 Modesto Police Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).

(c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):

1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
2. When the breach involves an email address that was furnished by the Modesto 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.

810.10.2 MANNER OF NOTICE

(a) Notice may be provided by one of the following methods (Civil Code § 1798.29):

1. Written notice.
2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
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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.

810.11 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 6254(f)(4)).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 6254(f)(4)).

The Custodian of Records should work as appropriate with the Chief of Police or the Internal Affairs Unit supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

810.11.1 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

(a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.

(b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.

(c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 6254(f)(4)).
810.11.2 NOTICE OF DELAY OF RELEASE
When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 6254(f)(4)):

(a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.

(b) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

810.11.3 REDACTION
If the Custodian of Records, in consultation with the Chief of Police or authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 6254(f)(4)).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 6254(f)(4)).

810.11.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE
If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 6254(f)(4)):

(a) The person in the recording whose privacy is to be protected, or his/her authorized representative.

(b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
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(c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 6254(f)(4)).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 6254(f)(4)(A)).

810.12 REVISIONS

Adopted October 1, 2014

• Revised March 15, 2016
• Revised October 1, 2016
• Revised February 1, 2018
• Revised February 1, 2019
• Revised October 1, 2019
• Revised January 1, 2020
• Revised March 1, 2021
• Revised May 1, 2021
• Revised February 1, 2022
Protected Information

812.1 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 Modesto 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.

812.1.1 DEFINITIONS
Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Modesto 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.

812.2 POLICY
Members of the Modesto 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.

812.3 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).

812.4 RESPONSIBILITIES
The Chief of Police shall select a member of the Department to coordinate the use of protected information (Agency CLETS Coordinator).

The responsibilities of this position include, but are not limited to:

(a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).

(b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice’s current Criminal Justice Information Services (CJIS) Security Policy.

(c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
(d) Developing procedures to ensure training and certification requirements are met.

(e) Resolving specific questions that arise regarding authorized recipients of protected information.

(f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

812.5 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Modesto 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.

812.5.1 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).

Each employee will sign an "Employee Statement Form" upon employment, which states the policy of the Department regarding confidentiality and restrictions of release of all records pertaining to Criminal Justice Information and Department of Motor Vehicle records.

812.6 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 Police Civilian Supervisor for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records Unit to ensure proper documentation of the release (see the Records Maintenance and Release Policy).
812.6.1 REVIEW OF CRIMINAL OFFENDER RECORD
Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

812.6.2 TRANSMISSION GUIDELINES
Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio. When circumstances reasonably indicate that the immediate safety of officers, other department members, or the public is at risk, only summary information may be transmitted.

In cases where the transmission of protected information, such as Personally Identifiable Information, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, a MDC or department-issued cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

- When able, queries should be attempted by DL or ID Number in an effort to avoid using full name and date of birth.
- Elements of protected information should be broken up into multiple transmissions, to minimally separate an individual’s combined last name and any identifying number associated with the individual, from either first name or first initial.
- Additional information regarding the individual, including date of birth, home address, or physical descriptors, should be relayed in separate transmissions.

Nothing in this policy is intended to prohibit broadcasting warrant information.

812.7 SECURITY OF PROTECTED INFORMATION
The Chief of Police will select a member of the Department to oversee the security of protected information (CLETS Security Point of Contact).

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.
812.7.1 MEMBER RESPONSIBILITIES
Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

812.8 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.

812.9 REVISIONS
Adopted October 1, 2014
- Revised April 1, 2016
- Revised April 1, 2018
- Revised March 1, 2021
Computers and Digital Evidence

814.1 PURPOSE AND SCOPE
This policy establishes procedures for the seizure and storage of cell phones, 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.

Modesto PD personnel shall read and become familiar with Penal Code § 502, California's computer enforcement laws.

814.2 SEIZING COMPUTERS AND RELATED EVIDENCE
Computer equipment requires specialized training and handling to preserve its value as evidence. Officers should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

(a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.

(b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.

(c) If the computer is off, do not turn it on.

(d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
   1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
   2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).

(e) Label each item with case number and 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) Lodge all computer items in the Evidence Facility. 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.
4. If it can be determined, how it was being used.
6. Document if anyone else has access.
7. Obtain written or verbal consent to access computer and e-mail accounts.

(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, disk drives, notes or passwords) 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. If you are seizing laptops, electronic notebooks, or GPS units, also attempt to locate the charging cables.

(j) Under no circumstances shall Modesto PD personnel unplug, turn on, or access a computer network defined as two or more computers, computer systems, or other computer devices connected with data sharing cables or other data sharing devices.

1. The computer network shall be guarded and kept secure from any interference, and a computer forensics expert must be called in to secure the computer network for the processing of digital evidence.

2. Attempt to obtain permission to monitor and access the computer network from the user(s) and/or the owner(s). Obtain passwords, encryption keys, other security access keys, or access procedures from the user(s) and/or the owner(s). Document the above information in a police report.

(k) Ask the digital evidence owner(s) or user(s) of the digital evidence to be seized if they are publishers (e.g. journalist, authors, editor(s), and document in the police report.

814.2.1 BUSINESS OR NETWORKED COMPUTERS
If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Officers should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

814.2.2 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, book item into the Evidence facility first, then forward the following items to a computer forensic examiner:
(a) Submit a request to have a forensic expert examine the digital evidence. The request should include:

1. Copy of report(s) involving the computer, including the Evidence/Property sheet.
2. 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 the evidence relating to the investigation.
3. A listing of the items to search for (e.g. photographs, e-mail, key words, monikers, financial documents).
4. 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 and evidence.

814.3 SEIZING DIGITAL STORAGE MEDIA
Digital storage media including hard drives, floppy discs, CDs, DVDs, 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 a forensically trained detective to assist you.

(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.

814.4 SEIZING PCDS
Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

(a) Officers should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.

(b) Do not turn the device on or off. The device should be placed in a safe mode such as Airplane mode if the forensic search will occur soon after the seizure, or turned off with the battery removed if the item is going to be booked into Evidence. If the device
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also has Wi-Fi capabilities, make sure the Wi-Fi is also turned off. If you don't know how to do this, ask for assistance.

(c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined.

814.5 DIGITAL EVIDENCE RECORDED BY OFFICERS
Officers handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

814.5.1 COLLECTION OF DIGITAL EVIDENCE
Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

814.5.2 SUBMISSION OF DIGITAL MEDIA
The following are required procedures for the submission of digital media used by cameras or other recorders:

(a) The recording media (smart card, compact flash card or any other media) shall be submitted to the Identification Unit at the end of every shift. Officers shall put the media card in an envelope with their name on it and place it into the digital evidence storage locker in the Equipment Room.

(b) Officers are not authorized to copy memory cards. The Identification Technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.

(c) Approved personnel may book evidentiary digital images by e-mailing them to Identification Technicians via the department's e-mail system.

(d) Identification Technicians will import the files to VeriPic. Once they have verified that the images properly transferred to the storage media, the ID Technicians will erase the memory card for re-use. Digital images downloaded into VeriPic will be considered original evidence.

814.5.3 DOWNLOADING OF DIGITAL FILES
Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

(a) Where possible, the camera or 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.
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814.5.4 PRESERVATION OF DIGITAL EVIDENCE

(a) The Identification Unit has a CD/DVD duplicator on site. You may request the ID Unit make an exact duplicate for court or investigative purposes. The original digital media shall remain in evidence and shall remain unaltered.

(b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.

(c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

814.5.5 COPYING, EXPORTING AND VIEWING

Identification Technicians and on rare occasions the System Administrator, are the only employees authorized to import and export images stored in the VeriPic database. A record of export for release shall be documented in the Notes section of the first photograph stored in a particular case.

Department personnel requiring a copy of the digital files must request a copy on a Technical Services Request form and submit to the Identification Unit. If subpoenaed for a court appearance, submit request at least 72 hours prior to the scheduled court time.

Selected work groups may be assigned viewing security level and given VeriPic viewing access.

814.6 DIGITAL IMAGE STORAGE

All digital photographic evidence collected after January 1, 2008 shall be stored in the VeriPic system. Under no circumstances will original digital photographs be stored on an employee’s workstation, laptop, or portable storage device.

Digital photographs will be stored by case number in the following format:

(a) YY123456: Place holding zeros will be used. (Ex. 14008145)

(b) Letters may be used to designate groups of photos within one case. (Ex: 14008145A to denote autopsy photographs)

(c) The crime code or classification shall be entered in the Title field.

(d) The photographer’s name and the capture date shall be entered in the Notes field

(e) Additional case information may be entered in the Notes field.

VeriPic system storage and viewing security levels will be assigned based on crime type or at the discretion of the Identification Technicians as follows:

(a) Basic - Photographs for property crimes, vehicle violations, field interviews, etc.

(b) Low - Photographs depicting individuals

(c) Medium - Photographs for sexual assault and homicides cases, etc.
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(d) High - Autopsy, homicide or other sensitive graphic photos
(e) Maximum - To be determined by Executive Staff

In addition, digital evidence photographs may be stored on archival quality CDs in Property/Evidence as determined by ID staff.
Animal Control

820.1 PURPOSE AND SCOPE
The purpose of this policy is to establish guidelines for animal control officers and Modesto Police Department personnel in dealing with animal control related calls for service and to set forth procedures regarding animal control services, the handling of injured animals, and the abatement of animal nuisances.

820.2 ANIMAL CONTROL OFFICER RESPONSIBILITY
The Animal Control Officer (ACO) functions under the authority of Penal Code § 836.5 and are responsible for enforcing local, state and federal laws relating to animals, and for appropriately resolving or referring animal problems as outlined in this policy. The ACO shall be under the operational control of the Support Division. The Animal Control Officer’s assigned working hours will be scheduled by the Animal Control Supervisor.

During hours when the ACO is on duty, requests for animal control services shall be assigned by Dispatch or the Watch Commander.

Animal Control Officers are trained and certified for the use of a tranquilizer gun. If an animal must be tranquilized, and an Animal Control Officer is not on duty, the Watch Commander should call out an Animal Control Officer.

820.3 OFFICER RESPONSIBILITY
During hours when the Animal Control Officer is off-duty, or if the ACO is otherwise unavailable, the following animal related calls for service will be handled by the appropriate on-duty officer.

Officers may be dispatched to animal related calls and should take appropriate actions to control the situation. The following are examples of Priority Two calls, where an officer may be dispatched:

(a) When there is a threat to public safety.
(b) When an animal has bitten someone, officers should take measures to confine the animal and prevent further injury.
(c) When an animal is creating a traffic hazard.
(d) When the owner/handler has been arrested and there is no other alternative placement for the animal.
(e) When the animal is gravely injured.
(f) Animal Cruelty (Penal Code § 597)

820.3.1 ANIMAL CRUELTY COMPLAINTS
Officers shall conduct a preliminary investigation on all reports of animal cruelty and forward the information to the ACO for follow-up. Officers shall not hesitate to take any immediate actions
deemed necessary. The assistance of an animal control officer may be requested to assist with the investigation when appropriate for the purpose of handling the disposition of any animal(s) associated with the case.

820.3.2 STRAY DOGS
If the dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued if appropriate. If a dog is taken into custody, it shall be transported to the Animal Shelter (8:00 am - 5:00 pm).

820.3.3 ANIMAL BITE REPORTS
Determine if there is an animal bite. To be classified as a bite, there must be blood/saliva contact. Officers should attempt to locate and identify the animal and its owner and determine if the animal is licensed, the license number and when the animal was vaccinated. Officers shall obtain as much information as possible, complete a police report or an Animal Bite Report, and forward to the Animal Control Supervisor for follow-up.

Quarantine:
If the owner and animal are located, the animal must be quarantined for at least ten days from the date of the bite. If the animal is not currently vaccinated, the animal should be impounded and taken to the Animal Shelter, a copy of the report will be forwarded to the Animal Shelter. The impound card should be clearly marked "dog bite". The officer may choose to allow "home quarantine" if the animal:

(a) is currently licensed and vaccinated for rabies,
(b) there is adequate containment to ensure the animal will not escape,
(c) the owner is given notification of his/her responsibilities in keeping the dog secured.

Exceptions to impounding:
(a) The owner or owner's relative is bitten.
(b) The attack was provoked (e.g. intruder)
(c) Any other circumstances that would lead the officer to believe a "home quarantine" is sufficient.

820.3.4 PUBLIC NUISANCE CALLS RELATING TO ANIMALS
Officers shall obtain and forward the ACO as much information as possible regarding the nature of the complaint, complaining person, owner information (if possible), location of problem, etc. Officers will also document any actions taken, citation(s) issued, related report numbers, etc.

820.4 DECEASED ANIMALS
Deceased animals on public property will normally be removed and property disposed of by Animal Control. Remains will be taken to the Animal Shelter freezer, and a shelter impound card with identifying information shall be turned into the Shelter.
Patrol Officers are not required to remove deceased animals unless there is a traffic hazard and no Animal Control Officer is on duty. Patrol Officers will abate the traffic hazard by removing the dead animal to the side of the road. Dispatch will be notified of the action and will enter a follow-up needed (FUN) call for the Animal Control Officers. If circumstances warrant, dead animals may be placed in an ACO vehicle or taken to the Animal Shelter Freezer. A shelter impound card with identifying information shall be turned into the shelter. The Watch Commander shall be notified if an animal is placed in an ACO vehicle and will notify Animal Control via the group e-mail "MPD Animal Control".

Reports:

A Card Closure (CC) report will be completed for all actions regarding a dead animal. The CC will include animal description, location, owner information (if any), and action taken.

820.5 INJURED ANIMALS

When any injured domesticated animal is brought to the attention of a member of this agency, all reasonable attempts shall be made to contact the owner or responsible handler. When the owner or responsible handler cannot be located and the animal is not an immediate danger to the community, it shall be taken to a doctor of veterinary medicine as described below (Penal Code § 597.1)

(a) During normal business hours, the animal should be taken to the Animal Shelter or Crows Landing Road Veterinary Clinic, 2109 Crows Landing Road, 538-1782.

(b) If after normal business hours, the animal should be taken to the Prescott Emergency Veterinary Clinic, 1800 Prescott Road, 527-2814.

(c) The only exception to the above is when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.

(d) Injured wildlife should be referred to the Department of Fish and Wildlife as applicable.

(e) When handling dead or injured animals, department employees shall attempt to identify and notify the owner of the final disposition of the animal.

(f) 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 the ACO is off duty, the information will be forwarded via group e-mail for follow-up.

820.5.1 EUTHANASIA

It shall be the officer's discretion to determine if the animal should be euthanized in the field. Per Food and Agricultural Section 17006, an animal that is "irremediably suffering from a serious illness or severe injury shall not be held for owner redemption."

When the need to euthanize a seriously injured or dangerous animal is necessary, Supervisor approval must be obtained prior to euthanasia for all methods other than lethal injection.
Animal Control Officers are certified to perform euthanasia by lethal injection. Sodium Phenobarbital is a Schedule C drug and strict records must be maintained. A running record must be maintained for every animal euthanized by lethal injection. The record shall include the case number, the amount of drug used, and the amount of drug remaining in the vial. A logbook is maintained in each Animal Control vehicle.

If the animal is to be euthanized in the field, it should not be moved. However, if conditions are such as to create a potential safety risk, the animal may be moved to an area where the animal may be safely euthanized.

Reports:

In the case of field euthanasia by lethal injection, a card closure will be completed. Euthanasia by any other method will require the completion of a police report. A copy of all police reports will be forwarded to the Animal Control Supervisor.

820.6 CITATIONS

It should be at the discretion of the handling officer or the Field Supervisor as to the need for, or advisability of, the issuance of a citation for a violation. If a Modesto Code violation is found, an Administrative Citation should be issued.

Refer to Procedure PR 802 for the applicable Modesto Municipal Codes.

820.7 POST-ARREST PROCEDURES

The arresting officer should make a reasonable effort to ensure that animals or pets under a person's care will be provided with adequate care when that person is arrested. This is only required when there is no person to provide care and the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animals.

Relatives or neighbors may be contacted, with the owner's consent, to care for the animals. If no persons can be found or the owner does not consent, the appropriate animal control authority should be notified.

820.8 REVISIONS

Adopted October 1, 2014

- Revised March 1, 2017
- Revised April 1, 2019
Chapter 9 - Custody
Custodial Searches

902.1 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 Modesto 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.

902.1.1 DEFINITIONS
Definitions related to this policy include:

Custody search - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

Body Cavity - Means the stomach or rectal cavity of a person, and vagina of a female person.

Physical body cavity search - Physical intrusion into a body cavity for the purpose of discovering any object concealed in the body cavity.

Visual Body Cavity Search - Means a visual inspection of a body cavity.

Strip search - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, or genitalia of such person.

902.2 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.

902.3 FIELD AND TRANSPORTATION SEARCHES
An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search, and the search should be recorded.
Custodial Searches

902.4 SEARCHES AT POLICE FACILITIES
Custody searches shall be conducted on all individuals in custody, upon entry to the Modesto Police Department facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

902.5 BODY SCANNER SEARCH
If a body scanner is available, a body scan search should be performed on all inmates/arrestees upon entering the secure booking area of the facility. Members (Penal Code § 4030):

(a) Within sight of the visual display of a body scanner that is depicting the body during a scan shall be of the same sex as the person being scanned, except for physicians or licensed medical personnel.

(b) Should ask female inmates if they are pregnant prior to a body scan and should not knowingly use a body scanner on a woman who is pregnant.

902.6 STRIP SEARCHES
No individual in temporary custody at any Modesto Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

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).

902.6.1 STRIP SEARCH PROCEDURES
Strip searches at Modesto Police Department facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

(a) Written authorization from a supervisor shall be obtained prior to the strip search, utilizing the Modesto Police Department's Strip/Visual Body Cavity Search Authorization form.
Custodial Searches

(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 a supervisor.
   4. The name of the individual who was searched.
   5. The name and sex of the members who conducted the search.
   6. The name, sex and role of any person present during the search.
   7. The time and date of the search.
   8. The place at which the search was conducted.
   9. A list of the items, if any, that were recovered.
   10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.

(g) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from a supervisor shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

(h) 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.
902.6.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES
A strip search may be conducted in the field only with authorization by a supervisor, 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 authorization by a supervisor does not need to be in writing.

902.7 PHYSICAL BODY CAVITY SEARCH
Under no circumstances shall any employee conduct a body cavity search on any person.

Employees may, however, obtain a search warrant for a body cavity search. No body cavity search may be conducted without the prior written authorization of the supervising officer on duty. The authorization shall include the specific and articulable facts and circumstances upon which the reasonable suspicion determination was made by the supervisor. (Penal Code § 4030(f)).

No person arrested on a misdemeanor or infraction offense, nor any minor described in subdivision (b), shall be subjected to a physical body cavity search except under the authority of a search warrant issued by a magistrate specifically authorizing the physical body cavity search. (Penal Code § 4030 (h)).

A copy of the prior written authorization required by subdivisions (f) and (g) and the search warrant required by subdivision (h) shall be placed in the agency’s records and made available, on request, to the person searched or his or her authorized representative. With regard to any strip, visual or body search, the time, date and place of the search, the name and sex of the person conducting the search and a statement of the results of the search, including a list of any items removed from the person searched, shall be recorded in the agency’s records and made available, upon request, to the person searched or his or her authorized representative. (Penal Code § 4030 (i)).

A physical body cavity search shall be conducted under sanitary conditions, and only by a physician, nurse practitioner, registered nurse, licensed vocational nurse or emergency medical technician Level II licensed to practice in this state. Any physician engaged in providing health care to detainees and inmates of the facility may conduct physical body cavity searches. (Penal Code § 4030 (k)).

All persons conducting or otherwise present during a strip search or visual or physical body cavity search shall be of the same sex as the person being searched, except for physicians or licensed medical personnel. (Penal Code § 4030 (l)).
Custodial Searches

All strip, visual and physical body cavity searches shall be conducted in an area of privacy so that the search cannot be observed by persons not participating in the search. Persons are considered to be participating in the search if their official duties relative to search procedure require them to be present at the time the search is conducted. (Penal Code § 4030 (m)).

902.8 REVISIONS
Adopted October 1, 2014

• Revised August 1, 2016
• February 1, 2017
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 Modesto Police Department and that are promulgated and maintained by the City of Modesto Human Resources.

1000.2 POLICY
In accordance with applicable federal, state, and local law, the Modesto Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 RECRUITMENT
The Support Division Commander should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

(a) Identification of racially and culturally diverse target markets.
(b) Use of marketing strategies to target diverse applicant pools.
(c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
(d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.
(e) Employee referral and recruitment incentive programs.
(f) Consideration of shared or collaborative regional testing processes.

The Support Division Commander shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.
1000.4 SELECTION PROCESS
The Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

(a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
(b) Driving record
(c) Reference checks
(d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
(e) Information obtained from public internet sites
(f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
(g) Local, state and federal criminal history record checks
(h) Lie detector test (when legally permissible) (Labor Code § 432.2)
(i) Medical and psychological examination (may only be given after a conditional offer of employment)
(j) Review board or selection committee assessment
(k) Chief’s interview
(l) Review of writing assignments (as assigned throughout selection process)

1000.4.1 VETERAN’S PREFERENCE
Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran’s preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

1000.5 BACKGROUND INVESTIGATION
Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate’s unsuitability to perform duties relevant to the operation of the Modesto 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).
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1000.5.1 NOTICES
Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.5.2 STATE NOTICES
If information disclosed in a candidate’s criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

1000.5.3 REVIEW OF SOCIAL MEDIA SITES
Due to the potential for accessing unsubstantiated, private, or protected information, the Support Division Commander shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Support Division Commander should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

(a) The legal rights of candidates are protected.
(b) Material and information to be considered are verified, accurate, and validated.
(c) The Department fully complies with applicable privacy protections and local, state, and federal law.

Regardless of whether a third party is used, the Support Division Commander should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.4 DOCUMENTING AND REPORTING
The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate’s background investigation file (11 CCR 1953).

1000.5.5 RECORDS RETENTION
The background report and all supporting documentation shall be maintained for a minimum of two years and in accordance with the established records retention schedule (Government Code § 12946; 11 CCR 1953).

1000.5.6 BACKGROUND INVESTIGATION UPDATE
A background investigation update may, at the discretion of the Chief of Police, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Modesto Police Department, or who is transferred...
to a different department within the City as provided, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

1000.6 DISQUALIFICATION GUIDELINES
As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.7 EMPLOYMENT STANDARDS
All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Department of Human Resources should maintain validated standards for all positions.

1000.7.1 STANDARDS FOR OFFICERS
Candidates shall meet the minimum standards established by POST (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

(a) Free of any felony convictions
(b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship
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(c) At least 18 years of age
(d) Fingerprinted for local, state, and national fingerprint check
(e) Good moral character as determined by a thorough background investigation (11 CCR 1953)
(f) High school graduate, passed the GED or other high school equivalency test, or obtained a two-year, four-year, or advanced degree from an accredited or approved institution
(g) Free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)
(h) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):
   1. Reading and writing ability assessment (11 CCR 1951)
   2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

1000.7.2 OPERATION OF A MOTOR VEHICLE
(a) The ability to possess a valid California driver’s license
(b) The ability to drive safely
(c) The ability to control a motor vehicle at high speeds
(d) The ability to operate a motor vehicle in all types of weather conditions
(e) The following may be disqualifying:
   1. Receipt of three or more moving violations (or any single violation of a potential life threatening violation, such as reckless driving, speed contest, suspect of a pursuit, etc.) within three years prior to application. Moving violations for which there is a factual finding of innocence shall not be included.
   2. Involvement as a driver in two or more chargeable (at fault) collisions within three years prior to date of application.
   3. A conviction for driving under the influence of alcohol and/or drugs within three years prior to application or any two convictions for driving under the influence of alcohol and/or drugs.

1000.7.3 INTEGRITY
(a) Refusing to yield to the temptation of bribes, gratuities, payoffs, etc.
(b) Refusing to tolerate unethical or illegal conduct on the part of other law enforcement personnel
(c) Showing strong moral character and integrity in dealing with the public
(d) Being honest in dealing with the public
(e) The following may be disqualifying:

1. Any material misstatement of fact or significant admission during the application or background process shall be disqualifying, including inconsistent statements made during the initial background interview (Personal History Statement or Supplemental Questionnaire) or polygraph examination or discrepancies between this background investigation and other investigations conducted by other law enforcement agencies.

2. Any forgery, alteration, or intentional omission of material facts on an official employment application document or sustained episodes of academic cheating.

1000.7.4 CREDIBILITY AS A WITNESS IN A COURT OF LAW

(a) The ability to give testimony in a court of law without being subject to impeachment due to his/her honesty or veracity (or their opposites) or due to prior felony conviction.

(b) The following may be disqualifying:

1. Conviction of any criminal offense classified as a misdemeanor under California law within three years prior to application

2. Conviction for two or more misdemeanor offenses under California law as an adult

3. Conviction of any offense classified as a misdemeanor under California law while employed as a peace officer (including military police officers)

4. Admission(s) of having committed any act amounting to a felony (including felony- misdemeanor offenses) under California law, as an adult, within five years prior to application or while employed as a peace officer (including military police officers)

5. Admission(s) of administrative conviction of any act while employed as a peace officer (including military police officers) involving lying, falsification of any official report or document, or theft

6. Admission(s) of any act of domestic violence as defined by law, committed as an adult. Admission(s) of any criminal act, whether misdemeanor or felony, committed against children including but not limited to: molesting or annoying children, child abduction, child abuse, lewd and lascivious acts with a child, or indecent exposure. Acts of consensual unlawful intercourse accomplished between two minors shall not be included, unless more than four years difference in age existed at the time of the acts

7. Any history of actions resulting in civil lawsuits against the applicant or his/her employer may be disqualifying

1000.7.5 DEPENDABILITY

(a) Having a record of submitting reports on time and not malingering on calls, etc.

(b) A record of being motivated to perform well
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(c) A record of dependability and follow through on assignments
(d) A history of taking the extra effort required for complete accuracy in all details of work
   A willingness to work the hours needed to complete a job
(e) The following may be disqualifying:
   1. Missing any scheduled appointment during the process without prior permission
   2. Having been disciplined by any employer (including military) as an adult for
      abuse of leave, gross insubordination, dereliction of duty, or persistent failure to
      follow established policies and regulations
   3. Having been involuntarily dismissed (for any reason other than lay-off) from two
      or more employers as an adult
   4. Having held more than seven paid positions with different employers within the
      past four years, or more than 15 paid positions with different employers in the
      past ten years (excluding military). Students who attend school away from their
      permanent legal residence may be excused from this requirement
   5. Having undergone personal bankruptcy more than once, having current financial
      obligations for which legal judgments have not been satisfied, currently having
      wages garnished, or any other history of financial instability
   6. Resigning from any paid position without notice shall be disqualifying, except
      where the presence of a hostile work environment is alleged.
   7. Having any outstanding warrant of arrest at time of application.

1000.7.6 LEARNING ABILITY
   (a) The ability to comprehend and retain information
   (b) The ability to recall information pertaining to laws, statutes, codes, etc.
   (c) The ability to learn and to apply what is learned
   (d) The ability to learn and apply the material, tactics and procedures that are required
       of a law enforcement officer
   (e) The following may be disqualifying:
      1. Being under current academic dismissal from any college or university where
         such dismissal is still in effect and was initiated within the past two years prior
         to the date of application
      2. Having been academically dismissed from any POST certified basic law
         enforcement academy wherein no demonstrated effort has been made to
         improve in the deficient areas, except: subsequent successful completion of
         another POST basic law enforcement academy shall rescind this requirement

1000.7.7 PERSONAL SENSITIVITY
   (a) The ability to resolve problems in a way that shows sensitivity for the feelings of others
   (b) Empathy
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(c) Discretion, not enforcing the law blindly
(d) Effectiveness in dealing with people without arousing antagonism
(e) The ability to understand the motives of people and how they will react and interact
(f) The following may be disqualifying:
   1. Having been disciplined by any employer (including the military and/or any law enforcement training facility) for acts constituting racial, ethnic or sexual harassment or discrimination
   2. Uttering any epithet derogatory of another person's race, religion, gender, national origin or sexual orientation
   3. Having been disciplined by any employer as an adult for fighting in the workplace

1000.7.8 JUDGEMENT UNDER PRESSURE
(a) The ability to apply common sense during pressure situations
(b) The ability to make sound decisions on the spot
(c) The ability to use good judgment in dealing with potentially explosive situations
(d) The ability to make effective, logical decisions under pressure
(e) The following may be disqualifying:
   1. Admission(s) of administrative conviction or criminal convictions for any act amounting to assault under color of authority or any other violation of federal or state Civil Rights laws
   2. Any admission(s) of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer

1000.7.9 ILLEGAL USE OR POSSESSION OF DRUGS
(a) The following examples of illegal drug use or possession will be considered recommended disqualifiers for public safety applicants:
   1. Any adult use of marijuana, hash, or hash oil within one year of application
   2. Any adult use of cocaine/crack, barbiturates, amphetamine/methamphetamine, ecstasy, toluene/glue/paint, steroids, or the unlawful use of pharmaceutical drugs within three years of application
   3. Any adult use of hallucinogens (LSD, PCP, etc.), or heroin within seven years of application
   4. Any illegal use or possession of a drug while employed in any law enforcement capacity
   5. Any manufacture, cultivation, or sales of a drug or illegal substance
   6. Any intravenous use of any of the above listed drugs
(b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:

1. Any illegal use or possession of any of the above drugs as a juvenile
2. Any adult use or possession of a drug not meeting the recommended disqualifiers listed above (Example: marijuana use longer than one year ago)

1000.8 PROBATIONARY PERIODS
The Support Division Commander should coordinate with the Modesto Department of Human Resources to identify positions subject to probationary periods and procedures for:

(a) Appraising performance during probation.
(b) Assessing the level of performance required to complete probation.
(c) Extending probation.
(d) Documenting successful or unsuccessful completion of probation.

1000.9 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
- Revised July 1, 2016
- Revised December 1, 2016
- Revised September 1, 2017
- Revised December 1, 2019
- Revised August 1, 2020
- Revised May 1, 2021
Performance Evaluations

1001.1 POLICY
It is the policy of this Department that all employees appointed to a regular position, other than temporary or hourly personnel, receive periodic evaluations of their performance. All employees shall be evaluated by the person to whom they report regarding their efficiency, performance, and specific job assignments, and according to other applicable standards established by the Department. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

1001.2 MEASUREMENT DEFINITIONS - POLICE OFFICERS, DETECTIVES AND COMMUNITY SERVICE OFFICERS:
Role Model: The employee is to be looked up to by his/her peers and others in the community and law enforcement. The employee consistently performs at a level above the performance work elements as defined.

Professional: The employee is doing all that is expected and required. His/her value to the organization is what makes the organization what it should be. The employee consistently performs at a level that meets the department's work elements for the assignment.

Needs Improvement: The employee needs to improve to a professional standard.

Does Not Apply/Not Rated: This category does not apply to the current assignment of the individual and was not rated or not observed for this reason.

1001.3 MEASUREMENT DEFINITIONS - REPRESENTED CONFIDENTIAL MANAGEMENT AND UNREPRESENTED MANAGEMENT:
Exceeds Expectations: Consistently meets the job requirements during the evaluation period and consistently exceeds expectations.

Meets Expectations: Consistently meets the job requirements during the evaluation period, with few variations in performance.

Does Not Meet Expectations: Periodically or consistently failed to meet the job requirements during the evaluation period.

1001.4 MEASUREMENT DEFINITIONS - MISCELLANEOUS:
Exceeds Standard: Consistently meets the job requirements during the evaluation period and consistently exceeds standard.

Meets Standard: Consistently meets the job requirements during the evaluation period, with few variations in performance.

Does Not Meet Standard: Periodically or consistently fails to meet the job requirements during the evaluation period.
Performance Evaluations

1001.5 SCHEDULED EVALUATION PERIODS
Probationary Police Officer Trainees and Police Officers:

Evaluations completed while in the Field Training Officer Program:
Probationary Police Officers shall be evaluated daily, bi-weekly, and at the end of each training phase while on the FTO Program. At the conclusion of the program, the primary FTO is responsible for completing the Final Evaluation Report recommending release from the program or termination from the classification. The FTO Program is scheduled to last a total of 17 weeks; however, trainees may receive remedial extensions or an early release from the program based upon individual performance.

Concurrent with the Field Training Officer program, probationary Police Officers shall be evaluated quarterly. Sworn employees shall be in a probationary status for 18 months following appointment as a sworn officer. The final probationary evaluation shall include a recommendation for either regular status or termination from the classification/City.

Sworn Probationary Employees Above Police Officer (Appointed or Promoted): Sworn probationary employees shall be evaluated quarterly. Sworn employees shall be in a probationary status for 12 months following appointment or promotion.

Non-Sworn Probationary Employees: Probationary non-sworn employees shall be evaluated quarterly. Non-sworn employees shall be in a probationary status for 12 months following appointment or promotion.

All Non-Probationary Employees: All non-probationary employees of this Department shall be evaluated at least annually.

1001.6 GUIDELINES - ALL EMPLOYEES
The criteria used for the performance evaluation shall be specific to the assignment of the employee during the rating period. All performance evaluations shall be documented on the appropriate forms/format and forwarded to the Chief of Police via the chain of command.

Sworn, non-management employees, Police Clerks and Community Service Officers: Performance Appraisal should include:

(a) Heading information - Employee’s name, effective date, rating period and type of evaluation.

(b) Performance areas, performance ratings, overall rating, summary comments, employee comments/initials, and signature of rater, lieutenant, employee/date. Career planning and signatures of division commander/date, chief of police/date and personnel/date.

All other employees: Performance Evaluation should include:

(a) Heading information - Employee’s name, job title/classification, City of Modesto Employee ID number, performance period, department, division, supervisor’s name, and supervisor title.
(b) Performance levels defined, performance standard/expectation heading, performance standard/expectation, performance rating, performance narrative, date employee comments added, date performance evaluation read/discussed, and signatures of employee/supervisor.

Evaluations shall be based on employee performance during the rating period only. Employee performance prior to or after the rating period shall be excluded.

Supervisors will notify non-probationary employees in writing, via a counseling letter or “Notice of Potential Unsatisfactory/Needs Improvement Rating”, whenever the employee’s performance is deemed unsatisfactory in a particular evaluation area. This written notification shall be provided to the employee in a timely manner. Timely written notification of unsatisfactory performance is not immediately required in the event that notification could compromise an on-going investigation. However, failure to provide the counseling letter or “Notice of Potential Unsatisfactory/Needs Improvement Rating” as set forth above shall not invalidate the evaluation and shall not prevent the supervisor from giving the employee an unsatisfactory rating in any evaluation area covered during that evaluation period. Supervisors will define actions that can and should be taken by the employee to improve the employee’s performance in the designated performance area(s).

If unsatisfactory performance continues, all necessary information, including, but not limited to, that information identified in the counseling letter or “Notice of Potential Unsatisfactory/Needs Improvement Rating”, may be included in the employee’s performance evaluation.

Whenever an employee receives a rating other than “Professional” or “Meets Expectations” or “Meets Standard”, a supervisor shall provide specific written documentation supporting such a rating.

In the case of sworn employees and Community Service Officers, if the majority of a rating category items are marked as “Role Model” then a general comment shall be made in the comments section.

If any single category item is rated “Needs Improvement” a comment shall be made about that specific category.

Each performance evaluation shall be reviewed and signed by the rater’s supervisor prior to being issued to the employee. The rater’s supervisor shall review the evaluation for consistency, fairness, and accuracy.

Raters shall be evaluated by their supervisors regarding the fairness and impartiality of ratings given, their participation in counseling employees, their ability to carry out the evaluator’s role in the performance evaluation system (including timeliness of coaching sessions and performance evaluations) and to ensure ratings are applied uniformly.

1001.7 PERFORMANCE EVALUATION REVIEW

At the conclusion of the rating period, employees will meet with their supervisors to receive and review their Performance Evaluation. The review process shall include:

(a) Feedback regarding the employee’s performance for the rating period just completed.
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(b) Expected performance and goals for the next rating period, when applicable. This should include a review of performance expectations/standards.

(c) Career counseling and/or referrals to internal/external resources relative to such topics as advancement, specialization, or training appropriate for the employee’s position.

Upon completion of the performance evaluation review, the employee shall be given the opportunity to

Review and sign the completed evaluation. The employee’s signature indicates that he/she has read and understands the evaluation. Their signature does not imply agreement or disagreement with the evaluation. If the employee refuses to sign the evaluation, the supervisor shall so note on the evaluation and record the reason(s), if given.

Provide written comments concerning the evaluation. These comments shall be attached to, and become part of, the evaluation.

Contest their performance evaluation in writing within their chain of command, up to and including the Chief of Police. The employee’s written response must be submitted within thirty days from the date the performance evaluation was reviewed with the employee. The employee’s written response will be attached to his/her performance evaluation.

1001.8 PERFORMANCE EVALUATION DISTRIBUTION
The original performance evaluation shall be forwarded to the Human Resources Department and kept on file for the time period specified in the City of Modesto Records Retention Schedule. The Human Resources Department shall provide to the employee and to the Department a copy of the completed performance evaluation after processing is completed.

1001.9 EVALUATOR RESPONSIBILITIES AND TRAINING
All sworn and civilian supervisory personnel shall be sent to a P.O.S.T. certified supervisory course, which includes training on the completion of performance evaluations, within one year of their supervisory appointment.

Field Training Officers will complete a P.O.S.T. certified field training officer course, which includes training on the completion of FTO evaluations, within one year of their FTO appointment.

Raters shall be responsible for completing performance evaluations on time and ensuring that they are consistent, fair, and provide an accurate statement of the employee’s performance for the rating period.
Promotional Policy

1004.1 PURPOSE AND SCOPE
To outline the promotional process for sworn personnel of the Modesto Police Department.

1004.1.1 POLICY
The City of Modesto and the Police Department are committed to promoting personnel who have been deemed to possess the desirable qualifications that are needed to fulfill the agency's commitment to its staff, the City organization and the community.

1004.2 GENERAL
The City of Modesto Human Resources Department has primary responsibility for administering promotional examinations.

All elements used to evaluate candidates for promotion shall be job related and nondiscriminatory.

(a) Written tests leased by the City of Modesto are validated from various recognized testing services (Cooperative Personnel Services, Donnoe & Associates, International Personnel Management Association, Commission on P.O.S.T. and independent consulting agencies).

The Chief of Police or designee may assist the Director of Human Resources, or designee, with the development of the testing process to be used for promotional examinations.

The Support Division Commander, or designee, shall be responsible for assisting the Human Resources Department in administering and evaluating the promotional process.

All promotion material shall be maintained in a secure area by the Human Resources Department or, when appropriate, by the Support Division Commander.

1004.2.1 POLICE DEPARTMENT RESPONSIBILITIES
The Chief of Police, or designee, has responsibility for the following:

(a) Interviewing eligible candidates for promotion.
(b) Selecting candidates for promotion.
(c) Administration of probationary periods.

1. The probationary period for classifications above the rank of Police Officer shall be twelve months.

1004.3 PROMOTIONAL ANNOUNCEMENT
The Human Resources Department shall publish a written announcement of the promotional process. The announcement shall be posted and shall include, the following information:

(a) Examples of duties
(b) Key skills and abilities
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(c) Experience and training guidelines
(d) Salary range
(e) Application procedure and final filing date
(f) Tentative testing schedule

1004.4 PROMOTIONAL TESTING
The promotional testing process may include, but is not limited to, any combination of the following:

(a) An evaluation of each candidate's application/promotional potential to ensure they meet the minimum qualifications for the position.

The City of Modesto, through the Human Resources Department, announces all upcoming promotional processes through inter or intra-City notification. Employees who meet the eligibility requirements for participating in the process must respond as outlined in the recruitment notification. The minimum requirements for consideration for promotion with the Police Department are specifically identified in each recruitment announcement, as determined by the Director of Human Resources and the Chief of Police and/or their staff.

1004.4.1 WRITTEN EXERCISES
If administered, the written exercise(s) will be developed to encompass the skills and knowledge required for the position. As with other aspects of the promotional process, the Chief of Police or his/her designee will provide input and support to the Director of Human Resources and his/her staff regarding topic areas and performance dimensions to be tested in the written exercise(s) portion of the selection process.

1004.4.2 PERFORMANCE EXERCISES OR ASSESSMENT CENTERS
If performance exercises or assessment centers are used as a part of the selection process, the Director of Human Resources shall be responsible for the development and facilitation of the process. As with other aspects of the promotional process, the Chief of Police or his/her designee, will provide input and support to the Director of Human Resources and his/her staff regarding topic areas and performance dimensions to be tested in the performance exercise or assessment center portion of the selection process.

1004.4.3 ORAL BOARD QUALIFICATION PANEL
An oral board will usually be a required aspect of the selection process for promotional candidates. The Director of Human Resources shall be responsible for the development and facilitation of the oral board qualification panel. As with other aspects of the promotional process, the Chief of Police or his/her designee, will provide input and support to the Director of Human Resources and his/her staff regarding topic areas to be covered in the oral board portion of the selection process.

1004.4.4 PAST JOB PERFORMANCE EVALUATIONS AND/OR TRAINING.
1004.5 REVIEW/APPEAL PROCESS
An employee has the right to review their answer sheets related to the promotional written examination. An employee has the right to appeal the content of any portion of the examination, excluding past job performance evaluations and/or training records.

(a) An appeal shall be made within five (5) working days of the announcement of the final results.

(b) An appeal shall be made verbally or in writing to the Director of Human Resources, or designee and the decision of the Director of Human Resources on the examination content shall be final.

1004.6 RE-APPLICATION, RE-TESTING, AND RE-EVALUATION
If, subsequent to an appeal, the Director of Human Resources authorizes reapplication, re-testing, re-evaluation, or removal of specific items, the Human Resources Department will make the appropriate written notification and/or make adjustments for other affected candidates.

An employee is eligible to reapply for a position once the Human Resources Department has opened recruitment and posted the position's job announcement.

1004.7 ELIGIBLE LISTS
As soon as possible after the conclusion of an examination, the Director of Human Resources shall prepare an eligible list consisting of names of persons qualifying, arranged in order of final scores or banded group, based upon the relative value assigned to each part of the examination before it was scored.

Eligible lists shall become effective when certified by the Director of Human Resources. Eligible lists shall remain in effect one year, unless sooner canceled for any reason by the Director, and may be extended by action of the Director for an additional six months' period, but in no event shall a list remain in effect for more than two years.

When practical and consistent with the best interests of the City service, vacancies in the classified service shall be filled by promotion from within, by re-employment of persons previously laid off, or by persons demoted from the class in lieu of lay-off. Following consideration of these means of filling a vacancy, the appointing authority shall refer to eligible lists resulting from open competitive examination. However, if the Director of Human Resources believes it desirable, after consultation with the Chief of Police and the recognized employee association, both promotional and open examinations may be given concurrently.
Anti-Retaliation

1008.1 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.

1008.2 POLICY
The Modesto 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.

1008.3 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.
1008.4 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 Human Resources Director.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member’s identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1008.5 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.
(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.
1008.6 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.

1008.7 WHISTLE-BLOWING
California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

(a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member’s supervisor or any other member with the authority to investigate the reported violation.
(b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.
(c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.
(d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.
(e) Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Internal Affairs Unit for investigation pursuant to the Personnel Complaints Policy.

1008.7.1 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).
Anti-Retaliation

1008.8 RECORDS RETENTION AND RELEASE
The Police Civilian Supervisor shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1008.9 TRAINING
The policy should be reviewed with each new member.
All members should receive periodic refresher training on the requirements of this policy.

1008.10 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2016
- Revised June 1, 2019
Reporting of Employee Convictions

1010.1 PURPOSE AND SCOPE
Convictions of certain offenses may restrict or prohibit an employee’s ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

The Training Unit shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR 1003).

The Support Division Commander shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

1010.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS
California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

1010.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS
Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendre plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee’s ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member’s ability to possess a firearm.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust.
1010.4 REPORTING PROCEDURE
All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

1010.5 PROCEDURE FOR RELIEF
Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee’s own resources and on the employee’s own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee’s duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

1010.5.1 NOTIFICATION REQUIREMENTS
The Support Supervisor shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony conviction or Government Code §
Reporting of Employee Convictions

1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

The Support Supervisor shall submit within 30 days a notice to POST of any appointment, termination, reinstatement, name change, or status change regarding any peace officer, reserve peace officer, public safety dispatcher, and records supervisor employed by this department (11 CCR 1003).

1010.6 REVISIONS
Adopted October 1, 2014

- Revised September 1, 2017
- Revised May 1, 2020
Drug- and Alcohol-Free Workplace

1012.1 PURPOSE AND SCOPE
The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

1012.2 POLICY
It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

1012.3 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. Such use shall not be tolerated (41 USC § 8103).

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 he/she 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, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

1012.3.1 USE OF MEDICATIONS
Members should avoid taking 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 his/her 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 his/her abilities, without a written release from his/her physician.

1012.3.2 USE OF MARIJUANA
Possession of marijuana, including medical marijuana, or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

1012.4 MEMBER RESPONSIBILITIES
Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.
Drug- and Alcohol-Free Workplace

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).

1012.5 EMPLOYEE ASSISTANCE PROGRAM
There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Department of Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1012.6 WORK RESTRICTIONS
If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

1012.7 REQUESTING SCREENING TESTS
The supervisor may request an employee to submit to a screening test under 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 his/her ability to perform duties safely and efficiently.

(b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.

(c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

1012.7.1 SUPERVISOR RESPONSIBILITY
The supervisor shall prepare a written record documenting the specific facts that led to the decision to request 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.
Drug- and Alcohol-Free Workplace

(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.

1012.7.2 SCREENING TEST REFUSAL
An employee may be 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 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.

(c) Violates any provisions of this policy.

1012.8 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).

1012.9 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 separately from the employee's other personnel files.

1012.10 REVISIONS
Adopted October 1, 2014

- Revised January 1, 2017
- Revised January 1, 2018
Sick Leave

1014.1 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).

1014.2 POLICY
It is the policy of the Modesto Police Department to provide eligible employees with a sick leave benefit.

1014.3 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.

1014.3.1 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.
Sick Leave

1014.4 EXTENDED ABSENCE
Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider’s statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

1014.5 REQUIRED NOTICES
The Human Resources Director shall ensure:

(a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.
(b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

1014.6 SUPERVISOR RESPONSIBILITIES
The responsibilities of supervisors include, but are not limited to:

(a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
(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 Department of Human Resources as appropriate.
(c) Addressing absences and sick leave use in the member’s performance evaluation when excessive or unusual use has:
   (a) Negatively affected the member’s performance or ability to complete assigned duties.
   (b) 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.

1014.6.1 EMPLOYEES WHO APPEAR ILL WHILE AT WORK
(a) When an employee is present in the workplace and exhibits signs of a contagious illness, they may be directed to go home.
(b) A supervisor or member of Command Staff must observe one or more of the following symptoms of a contagious disease:
   1. Persistent coughing or sneezing
Sick Leave

2. A fever of 100.4 degrees or higher
3. Flushed skin
4. Sweating without exertion
5. Shaking chills
6. Persistent eye and/or nasal discharge
7. Extreme fatigue or lethargy
8. Blistering or oozing skin lesions, and/or
9. Other symptoms as determined by the public health officials such as the CDC

(c) During the COVID-19 Pandemic of 2020, the content of this policy are to supplement the citywide COVID-19 (Coronavirus) Policies and Procedures authored by the Human Resources Director on March 17, 2020.

1014.7 REVISIONS
Adopted October 1, 2014

- Revised September 1, 2016
- Revised October 1, 2018
- Revised March 20, 2020
- Revised May 1, 2021
Smoking and Tobacco Use

1018.1 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 Modesto 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.

1018.2 POLICY
The Modesto 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).

1018.3 SMOKING AND TOBACCO USE
Smoking and tobacco use by members is prohibited anytime members are in public view representing the Modesto Police Department, except if the member is actively working an operation in an undercover capacity.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

1018.4 ADDITIONAL PROHIBITIONS
No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement or any other purpose (Government Code § 7596 et seq.).

1018.4.1 NOTICE
The Chief of Police or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

1018.5 REVISIONS
Adopted October 1, 2014
- Revised April 1, 2016
Personnel Complaints

1020.1 PURPOSE AND SCOPE
This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Modesto 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.

1020.2 POLICY
The Modesto 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.

1020.3 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.

1020.3.1 ASSIGNMENT OF COMPLAINT
The Internal Affairs Unit (IAU) will investigate allegations, which include, but are not limited to:

(a) Commission of a crime by department personnel
(b) Excessive use of force
(c) Use of illegal drugs
(d) Any acts of serious nature
(e) Dishonesty
(f) Sexual Harassment
(g) Discrimination
(h) Cases referred by the office of Chief of Police
(i) Cases referred by the Assistant Chief or Division Commander
A Supervisor may be assigned to investigate allegation, which include, but are not limited to:

(a) Discourteous or rudeness
(b) Improper procedure
(c) Minor infractions of departmental regulations
(d) Minor misconduct
(e) Differences of opinion between citizen and employee relative to enforcement, action, or omission
(f) Cases referred by the office of the Chief of Police
(g) Cases referred by the Assistant Chief or Division Commander

1020.3.2 COMPLAINT CLASSIFICATIONS
Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the complaining party is satisfied that appropriate action has been taken by a department supervisor. Informal complaints need not be documented on a personnel complaint form and the responsible supervisor shall have the discretion to handle the complaint in any manner consistent with this policy. An informal complaint should be limited to issues involving:

(a) Perceived discourteous or rudeness by department personnel
(b) Citizen's lack of understanding of agency procedures, laws, etc.
(c) Minor infractions of department regulations
(d) Minor misconduct
(e) Differences of opinion between citizen and employee relative to enforcement, action or omission

Formal - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor or referred to the IAU depending on the seriousness and complexity of the investigation. Complaints including, but not limited to the following, shall be deemed a formal complaint:

(a) Commission of a crime by department personnel
(b) Excessive use of force
(c) Use of illegal drugs
(d) Dishonesty
(e) Sexual harassment
(f) Discrimination
(g) Any acts of a serious nature

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or
Personnel Complaints

the IAU, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1020.3.3 DUTY STATUS MODIFICATION
An officer or employee may be relieved of duty pending the outcome of an investigation involving allegations of serious misconduct or criminal conduct, if such an action is in the best interest of the Modesto Police Department and the public. Relief from duty may involve transfer from field duties to administrative duties or placement on administrative leave with pay.

1020.3.4 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.

1020.3.5 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.

1020.3.6 ACCEPTANCE
All complaints will be courteously accepted by any department member. A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

(a) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Citizen Complaint form.

(b) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

1020.4 DOCUMENTATION
Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. In the event a citizen refuses to complete a complaint form, the supervisor will continue to obtain a recorded statement from the citizen and submit a memorandum to IAU outlining the
nature of the complaint, the name of the complainant, the names of the involved employee(s), and any related case number or incident number.

The IAU Clerk will log all complaints and inquiries into IA Pro, a database that records and tracks department complaints. The recorded data 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.

1020.5 SUPERVISOR RESPONSIBILITIES
In general, the primary responsibility for the initial investigation of a personnel complaint shall rest with the supervisor receiving the complaint. The Chief of Police or authorized designee may, however, direct that another supervisor investigate it. The supervisor shall be responsible for the following:

(a) A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.
(b) A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the supervisor’s lieutenant is notified as soon as practicable.
(c) A supervisor receiving any formal complaint shall ensure that a Personnel Complaint form has been completed as fully as possible.

When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly contact the Division Commander for direction regarding their role in investigation and/or addressing the complaint.

During the preliminary investigation of any complaint, the supervisor should make every reasonable effort to obtain names, addresses and telephone numbers of additional witnesses. When possible, supervisors should attempt to record the complainant's statement. Statements can be captured on department issued portable audio video recorders, department issued cell phones, or other recording devices where the content can be downloaded and stored on a memory device.

Once immediate medical attention has been provided, photographs of alleged injuries as well as accessible areas of non-injury should be taken. Take photographs of damaged property if applicable.

The original complaint form will then be directed to the IAU. The IAU Lieutenant will confer with the Chief of Police or his/her designee on the assignment, scope, and depth of all internal investigations.

The IAU shall retain all original personnel complaint documents and prepare a working file for the complaint investigation.
If the supervisor is not able to complete his/her initial investigation prior to the end of their shift, the supervisor shall notify the IAU Lieutenant, via e-mail, of the receipt of a new complaint. The notification should include:

(a) The name(s) of the involved employee(s).
(b) The name and contact information of the complainant.
(c) Details of the nature of the allegation(s).
(d) Any related case number(s) or incident number(s).

A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq.

1020.6 ADMINISTRATIVE INVESTIGATIONS
Allegations of misconduct will be administratively investigated as follows.

1020.6.1 ADMINISTRATIVE INVESTIGATION PROCEDURES
Whether conducted by a supervisor or a member of the IAU, 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 Modesto Police Department or other reasonable and appropriate place.
(c) No more than two interviewers should ask questions of an accused member.
(d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
(e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
(f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
(g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
(h) 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.
(i) No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
(j) 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.

(k) 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.

(l) All members shall provide complete and truthful responses to questions posed during interviews.

(m) 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).

1020.6.2 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.

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 - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

Other - The investigation revealed the alleged act was not misconduct or the employee was a witness only, or other disposition by the Chief of Police.

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.

1020.6.3 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
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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.

1020.6.4 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.

1020.7 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).

1020.7.1 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

1020.8 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.
1020.9 CRIMINAL INVESTIGATION
Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Modesto 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.

1020.10 DIVISION COMMANDER RESPONSIBILITIES
Upon receipt of any completed personnel investigation, IAU will assign the appropriate Division Commander the investigation for a review and disposition. The Division Commander may review the investigative file and complete a disposition or assign the investigation to a Lieutenant to complete. Absent extenuating circumstances, dispositions should be returned to IAU within 30-days. Any period longer than 30-days should be approved by the Chief of Police. Prior to forwarding recommendations to the Chief of Police, the Division Commander or designee may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

Upon receipt of any completed personnel investigation, the Division Commander of the involved member or the Division Commander's designee shall review the investigative file, the member's personnel file and any other relevant materials.

The Division Commander or designee may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

When forwarding any written recommendation to the Chief of Police, the Division Commander or designee 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.

1020.10.1 CHIEF OF POLICE RESPONSIBILITIES
Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the
event disciplinary action is proposed, the Chief of Police shall provide the member with a pre-disciplinary procedural due process hearing (Skelly) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief of Police shall also provide the member with:

(a) Access to all of the materials considered by the Chief of police in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.

1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.

2. If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

1020.10.2 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(e)).

1020.10.3 NOTICE REQUIREMENTS
The disposition of any civilian's complaint shall be released to the complaining party with 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(e)).

1020.11 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.
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(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.

1020.12 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.

1020.13 PROBATIONARY EMPLOYEES AND OTHER MEMBERS
At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the Peace Officer Bill of Rights (POBR), (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief of Police or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief of Police shall be final.

1020.14 RETENTION OF PERSONNEL INVESTIGATION FILES
All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

1020.15 STATISTICAL REPORTS
The IAU will, on an annual basis, compile statistical summaries of internal affairs investigations completed during the last calendar year.

1020.16 REVISIONS
Adopted October 1, 2014
• Revised April 1, 2016
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- Revised May 1, 2018
- Revised March 1, 2019
Seat Belts

1022.1 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).

1022.1.1 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.

1022.2 POLICY
It is the policy of the Modesto Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1022.3 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.

1022.4 TRANSPORTING CHILDREN
Children under the age of 8 shall be transported in compliance with California’s child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer’s design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).
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1022.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES
Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1022.6 INOPERABLE SEAT BELTS
Department vehicles shall not be operated when the seat belt in the driver’s position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1022.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS
Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer’s operator requirements for safe use.

1022.8 VEHICLE AIRBAGS
In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

1022.9 REVISIONS
Adopted October 1, 2014
- Revised September 1, 2016
Body Armor

1024.1 PURPOSE AND SCOPE
The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1024.2 POLICY
It is the policy of the Modesto 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.

1024.3 ISSUANCE OF BODY ARMOR
The Training Unit shall ensure that body armor is issued to all officers when the officer begins service at the Modesto Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Training Unit 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.

1024.3.1 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.

1024.3.2 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. At least annually, inspections of body armor should be conducted.
Body Armor

1024.3.3 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.

1024.4 VENDOR RESPONSIBILITIES
The vendor in conjunction with the Training Unit should:

(a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.

(b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
Personnel Records

1026.1 PURPOSE AND SCOPE
This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1026.2 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 § 832.5 and Penal Code § 832.7).

1026.3 DEPARTMENT OFFICE FILE
The department file shall be maintained as a record of a person’s employment/appointment with this department. The department file should contain, at a minimum:

(a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.

(b) Election of employee benefits.

(c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.

(d) Original performance evaluations. These should be permanently maintained.

(e) Discipline records, including copies of sustained personnel complaints.

1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least two years (Government Code § 26202; Government Code § 34090).

2. Disciplinary action resulting from a sustained civilian's complaint shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).

(f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment (Government Code § 3305).

1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).

2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall
not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).

(g) Commendations and awards.

(h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1026.4 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.

1026.5 TRAINING FILE
An individual training file shall be maintained by the Training Sergeant for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

(a) The involved member is responsible for providing the Training Sergeant or immediate supervisor with evidence of completed training/education in a timely manner.

(b) The Training Sergeant or supervisor shall ensure that copies of such training records are placed in the member’s training file.

1026.6 INTERNAL AFFAIRS FILE
Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Unit in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Internal Affairs Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member’s file but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) Exonerated

Investigation files arising out of civilian’s complaints shall be maintained pursuant to the established records retention schedule and for a period of at least five years. Investigations that
resulted in other than a sustained finding may not be used by the Department to adversely affect an employee’s career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least two years (Government Code § 26202; Government Code § 34090).

1026.7 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.

1026.8 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.

1026.8.1 REQUESTS FOR DISCLOSURE
Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.
All requests for disclosure that result in access to a member’s personnel records shall be logged in the corresponding file.

1026.8.2 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).

1026.9 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 or the Internal Affairs Unit supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(2)):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer’s action was consistent with law and department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.
Personnel Records

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(7) or other law, the following records shall be made available for public inspection upon request (Penal Code § 832.7):

(a) Records relating to the report, investigation, or findings of:
   1. The discharge of a firearm at another person by an officer.
   2. The use of force against a person resulting in death or in great bodily injury (as defined by Government Code § 12525.2(d)) by an officer.

(b) Records relating to an incident where a sustained finding (see the Personnel Complaints Policy) was made by the department or oversight agency regarding:
   1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
   2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer, including but not limited to any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(3)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(4) against the officer. However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a sustained finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(4)).

1026.9.1 REDACTION
The Custodian of Records, in consultation with the Chief of Police or authorized designee, shall redact the following portions of records made available for release (Penal Code § 832.7(b)(5)):

(a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers

(b) Information that would compromise the anonymity of complainants and witnesses

(c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force

(d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person
Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(6)).

1026.9.2 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 records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions (Penal Code § 832.7):

(a) Active criminal investigations
   1. Disclosure may be delayed 60 days from the date the use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
   2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who used the force.

(b) Filed criminal charges
   1. When charges are filed related to an incident where force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.

(c) Administrative investigations
   1. Disclosure may be delayed until whichever occurs later:
      (a) There is a determination from the investigation whether the use of force violated law or department policy, but no longer than 180 days after the date of the department’s discovery of the use of force or allegation of use of force
      (b) Thirty days after the close of any criminal investigation related to the officer’s use of force

1026.9.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

(a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.

(b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that
disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:

   (a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about use of serious force by officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(7)).

1026.10 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member’s request and the written response from the Department shall be retained with the contested item in the member’s corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

   (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.

   (b) Confidential portions of internal affairs files that have not been sustained against the member.

   (c) Criminal investigations involving the member.

   (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.

   (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.

   (f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments,
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.

1026.11 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

(a) During the preparation of each member’s performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.

(b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.

(c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

1026.12 REVISIONS

Adopted October 1, 2014

- Revised February 1, 2019
Specialized, Collateral and Temporary/Rotating Assignments

1028.1 PURPOSE AND BACKGROUND
To fill specialized, collateral and temporary/rotating assignments in ways that are fair and beneficial to employees in terms of interest and career development, while at the same time meeting the needs of the Department and the community. Considering these factors, candidates deemed to be the best qualified for assignments will be selected to fill these positions.

The Modesto Police Department offers a variety of specialized positions and collateral assignments to its employees, both sworn and non-sworn. Temporary/rotating assignments are limited and are based on the operational needs of the department. Specialized assignments and temporary/rotation assignments are an employee’s primary job. Collateral assignments are in addition to an employee’s primary job. The selection process of the specialized assignments, collateral assignments and temporary/rotation positions may vary depending on the specific assignment and the needs of the Department.

1028.2 POLICY
Officers who promote while assigned to a specialized assignment or temporary/rotating assignment will rotate to their new assignment. Employees who promote while holding a collateral assignment may be required to leave the collateral assignment, depending upon the assignment, needs of the Department, and staff review. This Policy shall only apply to Police Clerks, Community Service Officers, Police Officers, and Detectives.

Police Civilian Supervisors, Police Sergeants, Police Lieutenants and Police Captains are assigned at the discretion of the Chief of Police. Police Sergeants may be allowed to submit interest memorandums for assignments outside Patrol; however, the Chief of Police will assign Police Sergeants based upon Department and community needs.

Personnel may have dual membership in a specialized or temporary/rotating assignment and a collateral assignment; however, the specialized or temporary/rotating assignment takes priority over the collateral assignment. If both assignments are being utilized, approval to work a collateral assignment must be obtained from the supervisors of these units.

In cases of emergency or special needs of the Department, the Chief of Police reserves the right to assign personnel at his/her discretion.

1028.3 QUALIFICATIONS
To be considered for a specialized, collateral or temporary/rotating assignment, applicants must:

   (a) Have completed probation at the time of appointment; or have prior law enforcement experience; or have skills such as bilingual ability; or, characteristics necessary for undercover assignments.
Specialized, Collateral and Temporary/Rotating Assignments

(b) Received an overall “Professional” or overall “Role Model” rating on the last two annual evaluations, or for Police Clerks and Community Service Officers, a rating of “Meets Expectations”, or “Exceeds Expectations”

(c) Participate in the required selection process and relevant examination (if applicable).

1028.4 SELECTION PROCESS
When a specialized, collateral or temporary/rotating assignment becomes available, the supervisor or manager directly responsible for the assignment will create an announcement, which will be emailed to all personnel. Once announced, other department supervisors should also post it on bulletin boards at least two weeks prior to the application closing date, and read it in briefings. The announcement will include:

(a) Minimum requirements for the specialized, collateral or temporary/rotating assignment.

(b) Identify the criteria for selection, focusing on specific and objective skills and abilities required for the position.

(c) Procedures to be followed in the selection process.

Employees applying for specialized, collateral or temporary/rotating assignments should meet the qualifications. All applicants must submit a “Memo of Interest” describing the basis for interest in the assignment and their qualifications by the closing date specified in the announcement, and submit it through their chain of command.

Employees applying for specialized, collateral or temporary/rotating assignments may be required to participate in oral interviews with in-house Department personnel, outside personnel such as other City departments, and/or community members.

Selections for specialized, collateral and temporary/rotating assignments will be based on any or all of the following factors:

(a) Last two annual performance evaluations.

(b) Input from supervisors, which must be submitted in writing (email or memo) to the supervisor or manager directing the application/selection process, and which must focus on criteria for selection to the assignment.

(c) Employee career goals.

(d) Seniority.

(e) Employee demonstrated desire and initiative.

(f) Department and/or community needs.

(g) Relevant tests (if applicable).

The Chief of Police may modify the selection process (including qualifications) for extenuating circumstances or pressing Department need.
1028.5 REMOVAL FROM ASSIGNMENT
An employee may be removed from a specialized, collateral or temporary/rotating assignment for:
   (a) Unacceptable performance.
   (b) Disciplinary action resulting from a sustained Internal Affairs complaint.
   (c) Elimination of the assigned position.
   (d) Reassignment due to staffing or other extraordinary needs.
   (e) Promotion.

1028.6 SPECIALIZED ASSIGNMENTS AND TERMS
The length of assignment is reflected as a maximum and the actual time in the assignment is “up to” the designated length. Collateral assignments have no specific length of assignment. The calculations of tenure in an assignment are based upon the date the employee started the assignment, not the date of adoption of this Policy.

Police Sergeant and Police Civilian Supervisor positions are generally a four-year term, but may be rotated at any time at the discretion of the Chief of Police. Refer to Section 1028.2 of this Policy.

The creation of new specialized assignments and their respective term limits will include consultation with the affected bargaining units.

There shall be a five-year (five consecutive years) maximum limit to the assignment of a CSO or Police Clerk to special assignments, even if the employee transfers from one special assignment to another. For Police Officer and CSO, a special assignment is defined as any assignment that removes the employee from regular patrol duties. A special assignment for Police Clerk is defined as any assignment that removes the employee from the seniority shift bidding process.

Absent exceptional circumstances, employees who have completed five consecutive years in special assignments must perform at least twelve months of regular patrol duty or records duty before being assigned to another special assignment. For Police Officers and CSO, regular patrol duty is defined as assignment to a platoon and handling calls for service. For Police Clerk, regular records duty is defined as any position that requires seniority shift bidding. The availability of qualified and interested personnel for the vacant assignment will be considered. If no one is currently available and qualified, the person in the assignment may be extended for one year pending the next recruitment for the position.

For Police Officers assigned to a special assignment prior to July 1, 2014 there shall be a 5 year limit to the assignment. For assignments made after July 1, 2014 the term of the assignment is 4 years. For further information regarding assignment terms and extensions for Police Officers and Detective I, refer to the MPOA Memorandum of Understanding.

*The Chief of Police ultimately has discretion in length and terms of any assignment, based on the needs of the Department.*
1028.7 SPECIALIZED ASSIGNMENT LIST
Length of assignment listed below (MPOA) are for assignments made after July 1, 2014.

Office of the Chief of Police

Internal Affairs Detective - 4 Years
Intelligence Detective - Discretion of Chief
Internal Affairs Police Clerk - Discretion of Chief (w/confidential status)

Operations Division

DUI Officer - 4 Years
Traffic Officer - 4 Years
Bicycle Patrol Officer - 4 Years
Crime Reduction Team (CRT) Officer - 4 Years
Housing Authority Officer - 4 Years
Crime Free Multi Housing CSO - 3 Years
Crime Prevention CSO - 3 Years
Traffic CSO - 2 Years
Traffic Police Clerk - 3 Years

Investigative Services Division

SDEA/HIDTA/CALMET Officer - 4 Years
CVGIT/FBI Safe Streets Officer - 4 Years
Gang Investigations Officer - 4 Years
MNET Officer - 4 Years
Street Gang Unit (SGU) Officer - 4 Years
Warrants Officer - 4 Years
Detective I - 3 years
Crimes Against Persons CSO - 3 Years
Specialized, Collateral and Temporary/Rotating Assignments

Economic Crimes CSO - 3 Years
Property Crimes CSO - 3 Years
Special Victims CSO - 3 Years
Crimes against Persons Police Clerk - 3 Years
Special Victims Unit Police Clerk - 3 Years
Property/Economic Crimes Police Clerk - 3 Years

Support Division
Abandoned Vehicle Abatement CSO - 3 Years
Franchise Tow CSO - 3 Years
Training Police Clerk - 3 Years
Warrants Police Clerk - 3 Years
DALO Police Clerk - 3 Years

1028.8 COLLATERAL ASSIGNMENTS
The Department has collateral assignments, which are in addition to employees’ regular duties. These assignments are an excellent way for employees to pursue career goals, try new fields of endeavor, or obtain career-enhancing skills. Although most of these collateral assignments do not receive incentive pay, all employees assigned receive special training and some form of personal recognition.

Some of these assignments have specific requirements attached to them. Check with unit supervisors for details.

- Special Weapons and Tactics (SWAT)
- Crisis Negotiations Team (CNT)
- Equestrian Officer
- Field Training Officer (FTO)
- Urban Rifle Operator (URO)
- Range master/Armorer
- Assistant Public Information Officer (PIO)
- Canine Assignments
- Station Officer Assignments
Specialized, Collateral and Temporary/Rotating Assignments

1028.9 TEMPORARY/ROTATING ASSIGNMENTS
The department does not normally utilize temporary/rotating assignments, other than Detective Trainee (two year term). However, assignments of this nature may be needed to augment staffing levels in any given area due to the operational needs of the department. The duration of the assignment may or may not be known. If the need to fill an assignment is urgent and is short-term only, the division commander/unit supervisor may fill the position immediately by selecting an employee that is the most qualified for the position at that time. Otherwise, the process as outlined in this Policy shall be followed to include the identification of the position(s) available for temporary/rotating assignment, the duration of the assignment, if known, the criteria for selection of personnel, and a description of the selection process.

1028.10 REVISIONS
Adopted October 1, 2014

- Revised January 1, 2019
- Revised February 1, 2020
Awards and Commendations

1030.1 PURPOSE AND SCOPE
To honor department employees who are recognized for achievements and acts that go beyond that which would normally be expected in the course of their duties. To also honor citizens or officers from other law enforcement agencies who provide an exceptional service to the Modesto Police Department. "Employees", for purposes of this policy only, are sworn, non-sworn, part-time and volunteers

1030.2 COMMENDATIONS
Commendations are written documentation that record acts performed by department employees who perform their duties in a manner which is beyond that which would normally be expected. A commendation may result from observations made by department employees or citizens. An act that results in a commendation may receive further consideration for a department award/medal.

1030.2.1 RECOMMENDATIONS
Any employee may submit a recommendation for recognition for another employee via the chain of command to the Chief of Police. These recommendations may be based on information initiated by a department employee or citizen. Supervisors at each level will have the opportunity to make comments.

1030.3 AWARDS
It is the policy of the Modesto Police Department to recognize sworn and non-sworn police employees, police units, and citizens who perform outstanding acts of heroism or quality service delivery by recognizing individuals with an award.

It is not the responsibility of the Awards Committee to make recommendations or nominations for recognition but rather consider recommendations from employees with first-hand or exceptional knowledge of the event, such as a supervisor or co-worker.

The Awards Committee will receive memorandums of recommendations for recognition. They may conduct an investigation into the circumstances or facts surrounding the nominations for these awards, including other awards given by outside agencies, police publications or organizations. They will review all reports submitted and recommend to the Chief of Police whether or not the officer or employee should be presented an award.

The awards and commendations referred to in this order do not restrict or limit awards presented to employees by civic organizations or other agencies.

Only Department awarded and issued citation ribbons are authorized for display on an employee's uniform.

Awards may be bestowed upon members of the Department and individuals from the community. These awards include:
Awards and Commendations

- Award of Merit
- Award of Valor
- Lifesaving Award
- Meritorious Conduct

Criteria for each award and the selection, presentation and display of any award are determined by the Awards Committee and approved by the Chief of Police. (See MPD Procedure 1003 - MPD Awards Committee)

1030.3.1 COMMENDATION FORM
The Commendation Form shall be used to document the commendation of the employee and shall contain the following:

(a) Employee name and division assigned at the date and time of the commendation

(b) A brief account of the commendable action shall be documented on the form with case numbers, as appropriate. All supporting documents will be attached to the form. These documents may include, but not limited to; incident histories, police reports and memorandums.

(c) Signature of the person submitting the commendation

Completed commendation forms shall be forwarded to the appropriate Lieutenant and Division Commander for his/her review. The Lieutenant and Division Commander shall sign and forward the report to the Chief of Police for his/her review and signature.

The Commendation form will then be distributed by the Executive Assistant and a copy placed into the employee's personnel file.

1030.3.2 LETTERS OF APPRECIATION
Letters of appreciation received from citizens may be used as a basis for a commendation and will be attached to the Citizen Contact form. If no recommendation for commendation is done, then the letter of appreciation will be routed to the appropriate Division Commander and then to the employee via supervisor. The letter will be filed in the employee's file until the annual evaluation is completed. A letter acknowledging receipt of the appreciation letter will be sent to the citizen from the appropriate Division Commander.

1030.4 REVISIONS
Adopted October 1, 2014

- Revised May 1, 2021
- Revised September 1, 2021
Meal Periods and Breaks

1034.1 PURPOSE AND SCOPE
To provide a process to manage the lunch periods for field personnel on a schedule that does not provide for a one-hour lunch break.

1034.1.1 LUNCH BREAKS
Pursuant to the provisions of the current Memorandum of Understanding between the City of Modesto and the Modesto Police Officers Association, and the Modesto Police Non-Sworn Association, the following procedures shall apply to all personnel assigned to field duties:

Field personnel assigned to the (3) 12 1/2 hours schedule are entitled to two paid 15-minute coffee breaks and one 30-minute paid lunch break. Field personnel may elect to take a 45-minute lunch break by combining their 15 minute coffee break with a 30 minute lunch break.

MPNSA employees assigned to a 4/11 schedule will have EITHER: A paid lunch break of thirty (30) minutes coupled with one (1) fifteen (15) minute paid break, for a total of forty-five (45) minutes, OR, a paid break of fifteen (15) minutes followed by a forty-five (45) minute lunch of which thirty (30) minutes is paid.

All field personnel, regardless of their assigned schedule, may request a lunch/coffee break during their assigned shift. Clearance; however, will only be based upon the need to maintain an appropriate level of personnel available to handle calls for service. Field personnel will be cleared by the Primary Dispatcher and will not clear themselves for their lunch/coffee break. Dispatch should take into consideration the time of day and calls for service within vectors when determining whether how many units to clear per vector. All units from each shift should complete their lunch/coffee breaks and back in service by the last hour of their shift. No more than three patrol units will take a lunch break at any given time. At no point can all available units from any area command take their lunch breaks at the same time. Any exceptions will be approved by the Watch Commander or Patrol Supervisor in the Watch Commander's Office.

Field personnel are subject to recall (pre-empted) during their paid lunch/coffee. Field personnel will remain immediately available by their radio or phone.

All other units not specifically assigned to patrol function will clear themselves for their lunch/coffee break.

1034.1.2 EMPLOYEES IN UNIFORM OR MARKED VEHICLES
Employees in uniform or marked vehicles may take their lunch break only at:

(a) The Modesto Police Department, any area office, or any facility available for use to employees or their families regardless of the number of employees present.

(b) Any place accessible to the public, as long as no more than four (4) marked police vehicles (to include motorcycles, vans, CSO or ACO vehicles), and no more
Meal Periods and Breaks

than six (6) uniformed employees are present. Exceptions may be made by the Watch Commander based upon their respective shifts and the availability of “open” restaurants etc.

(c) The employee’s residence or the residence of an immediate family member (parent, grandparent, spouse, sibling, or parent of a spouse). The location shall be listed by street address and the specific relationship of the resident as listed above. If the location is the officer’s residence it may be listed as “10-42”. Lunch break shall not be taken more than one (1) mile outside the Modesto city limits unless approved by the Watch Commander.

(d) If lunch break is taken at a private residence, marked police vehicles shall be parked in plain view.

1034.2 REVISIONS
Adopted October 1, 2014

• Revised October 1, 2017
• August 1, 2019
Lactation Break Policy

1035.1 PURPOSE AND SCOPE
The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee’s infant child (Labor Code § 1034).

1035.2 POLICY
It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207; Labor Code § 1030).

1035.3 LACTATION BREAK TIME
A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; Labor Code § 1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee’s regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify Stanislaus Regional 9-1-1 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.

1035.4 PRIVATE LOCATION
The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee’s work area and shall be other than a bathroom or toilet stall.

The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207; Labor Code § 1031). Room 236, a private office within the Patrol Division, is the designated lactation room.

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.
Lactation Break Policy

1035.5 STORAGE OF EXPRESSED MILK
Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

1035.5.1 STATE REQUIREMENTS
Employees have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Employees who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

1035.6 REVISIONS
Adopted October 1, 2014

- Revised April 1, 2019
- Revised April 1, 2020
- Revised June 1, 2020
Payroll Records

1036.1 PURPOSE AND SCOPE
PD payroll records are submitted to City Finance on a bi-weekly basis for the payment of wages.

1036.2 POLICY
The Modesto Police Department maintains timely and accurate payroll records.

1036.3 RECORDS
The Support Division Commander shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

1036.4 RESPONSIBILITIES
Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their commands.

1036.5 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 Support as established by the City payroll procedures.

1036.6 REVISIONS
Adopted October 1, 2014
- Revised July 1, 2018
- Revised August 1, 2018
- Revised May 1, 2020
Overtime Compensation Requests

1038.1 PURPOSE AND SCOPE
It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed upon in the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit an inTime entry outlined in this policy.

1038.1.1 DEPARTMENT POLICY
Because of the nature of police work, and the specific needs of the Department, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed the amount of compensatory time allowed, per the applicable Memorandum of Understanding.

1038.2 REQUEST FOR OVERTIME COMPENSATION
All employees shall obtain supervisor approval prior to working any overtime. Once overtime is approved by a supervisor, the employee shall submit an overtime request via MyTime as soon as practical. Failure to submit a request for overtime compensation in a timely manner may result in discipline and/or delay in payment.

1038.2.1 EMPLOYEES RESPONSIBILITY
Employees shall submit approved overtime in one of the following ways.

1. If the approved overtime is for a known period of time, the employee will submit the overtime request via MyTime prior to beginning the overtime period. If circumstances don't allow for entry prior to the beginning of the overtime, the entry should be made as soon as possible but, in all instances, prior to the employee securing from duty.

2. When overtime is approve for an unknown period of time (held over due to call volume, emergency, etc.) the employee will submit the overtime request via MyTime prior to securing from duty.

Employees shall include the reason for the overtime, case number (if applicable) AND the name of the approving supervisor in the notes section of all MyTime overtime requests.

Employees will notify the approving supervisor once they have submitted an overtime request into MyTime.

All employees shall review and submit their payroll timesheet via MyTime by 10 pm on the final Monday each pay period. Each employee is responsible for inspecting his/her timesheet for accuracy and notifying a supervisor or PD Payroll if any errors or discrepancies are identified.
1038.2.2 SUPERVISORS RESPONSIBILITY
It shall be the responsibility of the approving supervisor to approve any overtime in InTime prior to securing from duty. If circumstances preclude a supervisor from approving overtime in InTime prior to securing, it is their responsibility to inform another on-duty supervisor or the watch commander of the conditions of the approved overtime so the on-duty supervisor or watch commander can approve the overtime in InTime prior to securing from duty.

Prior to approving any overtime, the approving supervisor will ensure all information in MyTime overtime request is accurate and complete (correct activity code, accurate hours worked, reason for OT, approving supervisor’s name, etc.). Any incomplete or inaccurate overtime entries should be rejected and include the reason for rejection. Mass approval of overtime entries, or approval of overtime entries without direct knowledge of the authorization is prohibited.

Supervisors shall not approve their own MyTime entries or enter their overtime in InTime. Overtime requests for all employees, including supervisors, will be done utilizing MyTime.

PD Payroll is not authorized to approve overtime entries for any employee without Division Commander approval. Failing to approve overtime in a timely manner may result in discipline and/or delay in payment for affected employee.

1038.3 ACCOUNTING FOR OVERTIME WORKED
Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., two hours for court). PD Payroll will verify the hours entered are in accordance with the appropriate MOU.

1038.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR
Employees shall work and record their time in six minute increments of an hour. When accounting for less than a full hour, refer to the following chart:

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1038.4 REVISIONS
Adopted October 1, 2014
Overtime Compensation Requests

- Revised July 1, 2018
- Revised August 1, 2018
- Revised May 1, 2020
Outside Employment

1040.1 PURPOSE AND SCOPE
In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy.

1040.1.1 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.

Inconsistent and incompatible employment - is defined as, but is not limited to, work that:

(a) Results in a potential, perceived or actual conflict of interest;
(b) Gives the impression that outside activities are official acts;
(c) Detracts from job performance with the City;
(d) Causes the employee to be less effective or productive;
(e) Tends to impair the mental or physical capacity of the employee;
(f) Is subject to City regulation;
(g) Takes time and attention away from City business.

1040.2 OBTAINING APPROVAL
No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete a "Request for Authorization of Outside Business or Employment" form which shall be submitted to the employee's immediate supervisor, to be forwarded through the Chain of Command to the Chief of Police for consideration.
Outside Employment

Within five working days after receiving the form, the department director shall acknowledge receipt thereof, make comments and forward all three copies of approved requests to the Human Resources Department. If the department director determines that the proposed business or employment is consistent and compatible with the employee's City employment, the original form will be filed in the employee's personnel file, a copy will be sent to the employee and the third copy will be returned to the department.

If the department director determines that the proposed business or employment is inconsistent or incompatible, as defined above, it shall be so stated on the form under comments, and the employee shall be informed that if the business or employment is pursued, it could result in dismissal from City employment. (Penal Code § 70(e)(3)).

If a request is disapproved by the department director, the employee may request review by the City Manager, who shall make a final decision in writing to the employee within twenty (20) calendar days, after making, or causing to be made, whatever investigation that he/she deems necessary. After the City Manager's decision has been made, the original form, along with the City Manager's decision, will be filed in the employee's personnel file, copies will be sent to the employee, and copies will be returned to the department. the employee will be provided with a copy of the Request for Authorization of Outside Business or Employment form.

Unless otherwise indicated in writing on the approved form, an authorization form will be valid through the end of the calendar year in which the authorization is approved. On an annual basis, employees will resubmit the "Request for Authorization of Outside Business or Employment" and note on the form that the request is an annual update.

1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT
If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

1040.2.2 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(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the Authorization of Outside Business or Employment.
Outside Employment

(b) Suspension or revocation of a previously approved Authorization of Outside Business or Employment may be included as a term or condition of sustained discipline.

(c) If, at any time during the term of a valid outside employment authorization, an employee's conduct or outside employment conflicts with the provisions of department policy, the Authorization of Outside Business or Employment 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 authorization may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status.

1040.3 PROHIBITED OUTSIDE EMPLOYMENT
Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

(a) Involves the employee’s use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage.

(b) Involves the employee’s receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee’s duties as a member of this department.

(c) Involves the performance of an act in other than the employee’s capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department.

(d) Involves time demands that would render performance of the employee’s duties for this department less efficient.

1040.3.1 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.
Outside Employment

(a) The applicant will be required to enter into an indemnification agreement prior to approval.

(b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.

(c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
   1. The officer(s) shall wear the departmental uniform/identification.
   2. The officer(s) shall be subject to the rules and regulations of this department.
   3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
   4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
   5. Outside security services shall not be subject to the collective bargaining process.
   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.

1040.3.2 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.

1040.3.3 SPECIAL RESTRICTIONS
Except for emergency situations or with prior authorization from the Division Commander, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.

1040.4 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.

1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS
If an employee terminates his or her outside employment during the period of a valid authorization, the employee shall promptly submit written notification of such termination to the Chief of Police.
Outside Employment

via the Chain of Command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY
Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor’s orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work authorization, a notice of revocation of the member’s Authorization of Outside Business or Employment will be forwarded to the involved employee, and a copy attached to the original authorization.

Criteria for revoking the Authorization of Outside Business or Employment include, but are not limited to, the following:

(a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the City’s professional medical advisors.

(b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.

(c) The employee’s failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Modesto Police Department, a request (in writing) may be made to the Chief of Police to restore the authorization.
Occupational Disease and Work-Related Injury Reporting

**1042.1 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.

**1042.1.1 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.).

**1042.2 POLICY**
The Modesto 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.).

**1042.3 MEMBER RESPONSIBILITIES**
Every member of the Modesto Police Department who sustains any injury or illness while on duty shall notify his/her supervisor immediately or as soon as circumstances allow.

All injuries shall be reported regardless of whether or not the injury required medical attention:

(a) If not incapacitated, the injured member shall contact the Company Nurse and complete the appropriate forms as soon as practical and submit them to their supervisor.

(b) Additionally, if the injury/illness requires medical attention, the injured member shall contact the Company Nurse and complete the appropriate forms as soon as practical and submit them to his/her supervisor.

(c) In any case where the injured member is unable to complete the required forms, his/her supervisor shall contact the Company Nurse and complete the forms.

Upon receiving medical treatment, members shall keep their supervisor updated on their work status and forward all written Doctor’s Orders to his/her supervisor.

The Modesto Police Department will address occupational diseases and work-related injuries appropriately, and will comply with applicable state worker's compensation requirements (Labor Code § 3200 et seq.).

**1042.4 SUPERVISOR RESPONSIBILITIES**
Upon learning of a work related injury/illness, a supervisor shall immediately ensure that steps are taken to safeguard the well-being of the injured member. The supervisor assigned to the incident shall, as soon as practical, notify the on-duty Watch Commander.
Occupational Disease and Work-Related Injury Reporting

The supervisor shall ensure that the injured member contacts the Company Nurse and completes the appropriate forms. If the injured member is incapacitated, the supervisor shall contact the Company Nurse and complete the forms for the employee.

Supervisors shall complete the Supervisor Comments section of each form and ensure that required documents regarding workers’ compensation are properly completed. Prior to the end of their work shift, the supervisor will forward all completed forms to the Operations Division Commander and notify their Division Commander via e-mail.

1042.4.1 DIVISION COMMANDER RESPONSIBILITIES
The Division Commander who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief of Police, the City’s risk management entity, and the Support Division Commander to ensure any required Division of Occupational Health and Safety Administration (Cal/OSHA) reporting is made.

1042.5 OTHER DISEASE OR INJURY
Diseases and injuries caused or occurring on-duty that do not qualify for workers’ compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the Operations Division Commander through the chain of command.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1042.6 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.

1042.6.1 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.

1042.7 REVISIONS
Adopted October 1, 2014
Occupational Disease and Work-Related Injury Reporting

- Revised May 1, 2017
- Revised June 1, 2020
Personal Appearance Standards

1044.1 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.

1044.2 GROOMING STANDARDS
Unless otherwise stated, 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, or designated commanding officer, has granted exception. Any officer working in an undercover capacity shall be exempt from all grooming standards as determined by unit supervisors and commanders.

1044.2.1 HAIR
Hairstyles of all members shall be neat in appearance and of a natural appearing color. Unusual hairstyles shall not be allowed.

For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance. Hair must not cover any portion of the ears. Hair shall not accumulate on the back of the head/neck.

For female sworn members, hair must be no longer than the horizontal level of the top of the uniform patch when the employee is standing erect; worn up in a bun, or in a tightly wrapped braid. For officer safety reasons, ponytails are not allowed for any officer working a uniformed enforcement assignment. Hair accessories may be worn in a dark navy or black color and non-descript in design. When working a non-enforcement assignment, a female officer may wear her hair down or in a ponytail as long as no portion of the hair covers department insignia or the nametag.

For non-sworn female members, hair styles must appear professional and neat in appearance. No excessively flaring styles are allowed. Only natural appearing hair colors are allowed.

1044.2.2 MUSTACHES
A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip. "Handlebars" or waxing is not allowed.

1044.2.3 SIDEBURNS
Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat. Sideburns shall not be excessively flared in appearance.

1044.2.4 FACIAL HAIR
Sworn and non-sworn personnel are permitted to wear goatees and beards subject to the following guidelines:
Personal Appearance Standards

1. The beard will follow the jaw line and will be kept neatly trimmed and clean at all times and not more than three-quarters (3/4) inch in length at its longest point.

2. All beards must be of a natural color and no exotic patterns or styles are allowed. No portion of the beard or mustache may be longer than the rest.

3. The beard will not extend down from the crease of the neck nor up onto the cheek under the eye.

4. The beard must be developed while on vacation or otherwise away from the Department. Individuals will not be permitted to maintain shabby appearances as a result of simple failure to shave.

The Recruit Training Officer (RTO), police officer recruits (POR), and police officer trainees (POT) shall be clean shaven for the duration of their assignment/classification.

For operational purposes, the SWAT Commander shall have the authority to require any or all members assigned to the Modesto Police Department SWAT Team to be clean shaven.

An employee's immediate supervisor shall have the responsibility of enforcing these guidelines. Any dispute will be submitted to the Chief of Police whose decision will be final and not subject to grievance.

Sworn personnel working undercover assignments will be exempt from these restrictions at the discretion of the Chief of Police.

The Chief of Police maintains authority to require personnel to be clean shaven for a department function as he/she deems necessary.

1044.2.5 FINGERNAILS
Uniformed male personnel shall have their fingernails clean and trimmed where no portion extends beyond the fleshy tip of the finger. No polish is allowed.

Uniformed sworn female personnel shall not have fingernails that extend more than 1/8 inch beyond the fleshy portion of the finger. Only natural colored polish may be applied in a natural appearing design.

Uniformed non-sworn female personnel may have fingernails up to 1/4 inch in length beyond the fleshy portion of the finger. Nail polish of natural or soft colors may be applied. Non-descript and inoffensive designs may be applied so long as the general appearance is professional in nature.

1044.2.6 JEWELRY AND ACCESSORIES
For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related or obscene language is not allowed.

No jewelry or personal ornaments shall be worn by officers on any part of the uniform or equipment, except those authorized within this manual. The Department will not reimburse employees for lost or damaged jewelry.
Personal Appearance Standards

Jewelry worn by uniformed personnel, if worn around the neck, shall not be visible. All non-uniform personnel may wear jewelry around the neck so long as it is professional in appearance and not unusually large or lengthy in appearance. No more than two necklaces may be visibly worn.

Male employees are prohibited from wearing earrings while on duty. Female sworn officers may wear one pair of earrings, 1/4 inch or less in diameter, silver, gold stud or single gemmed in design. In addition, non-sworn female employees may wear a pair of hooped designed earrings no more than a 1/2 inch in diameter.

Rings may be worn on the fingers not to exceed a total of three, with a maximum of two on one hand. A wedding band consisting of two rings bound together shall be considered one band. Rings shall not be offensive in appearance or excessively large.

1044.3 TATTOOS
Tattoos do not portray a professional image; therefore tattoos shall not be visible while on duty. Those who have tattoos on their arms, are to wear long-sleeved uniform shirts.

1044.4 BODY PIERCING OR ALTERATION
Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

(a) Tongue splitting or piercing.
(b) The complete or transdermal implantation of any material other than hair replacement.
(c) Abnormal shaping of the ears, eyes, nose or teeth
(d) Branding or scarification.

1044.5 EXEMPTIONS
Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

1044.6 REVISIONS
Adopted October 1, 2014

- Revised January 1, 2020
- Revised August 1, 2020
Uniform Regulations

1046.1 PURPOSE AND SCOPE
The uniform policy of the Modesto Police Department is established to ensure that uniformed officers will be readily identifiable to the public through the proper use and wearing of department uniforms. Employees should also refer to the following associated policies:

Department Owned and Personal Property
Body Armor
Personal Appearance Standards

The Uniform and Equipment Specifications manual is maintained and periodically updated by the Chief of Police or his/her designee. That manual should be consulted regarding authorized equipment and uniform specifications. A Uniform Committee may be formed, at the discretion of the Chief of Police, to evaluate and advise on uniform and equipment issues.

The Modesto Police Department will provide uniforms for all employees required to wear them in the manner, quantity and frequency agreed upon in the respective employee group’s collective bargaining agreement.

1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT
Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis, or other time of need.

(a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.

(b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.

(c) Personnel shall wear only the uniform specified for their rank and assignment (Penal Code § 13655).

(d) The uniform is to be worn in compliance with the specifications set forth in the department’s uniform specifications that are maintained separately from this policy.

(e) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.

(f) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.

(g) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.

(h) If the uniform is worn while in transit, an outer garment shall be worn over the uniform shirt so as not to bring attention to the employee while he/she is off-duty.
Uniform Regulations

(i) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.

(j) Mirrored sunglasses will not be worn with any Department uniform.

(k) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief of Police or the authorized designee.

1. Wrist watch
2. Wedding ring, class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand
3. Medical alert bracelet

1046.2.1 DEPARTMENT ISSUED IDENTIFICATION
The Department issues each employee an official department identification card bearing the employee’s name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

(a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.

(b) Officers working specialized assignments may be excused from the possession and display requirements when directed by their Division Commander.

1046.3 UNIFORM CLASSES

1046.3.1 CLASS A UNIFORM
The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform is required for all sworn personnel. The Class A uniform includes the standard issue uniform with:

(a) Long sleeve shirt with tie
(b) Polished shoes

Boots with pointed toes are not permitted.

1046.3.2 CLASS B UNIFORM
All officers will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

(a) The long or short sleeve shirt may be worn with the collar open. No tie is required
(b) A white, navy blue or black crew neck t-shirt must be worn with the uniform
(c) All shirt buttons must remain buttoned except for the last button at the neck
(d) Shoes for the Class B uniform may be as described in the Class A uniform
Uniform Regulations

(e) Approved all black unpolished shoes may be worn
(f) Boots with pointed toes are not permitted

1046.3.3 LOAD BEARING VEST UNIFORM
Blauer FlexRS in Dark Navy
- Men's Cargo Pocket Pants: #8665
- Men's Short Sleeve: #8362
- Men's Long Sleeve: #8361
- Women's Cargo Pocket Pants: #8665W
- Women's Short Sleeve Shirt: #8362W
- Women's Long Sleeve Shirt: #8361W
- Winter Long Sleeve base shirt (insulated): #8374

1046.3.4 CLASS C UNIFORM (AUXILIARY UNIFORM)
The Auxiliary Uniform shall consist of 5.11 BDU pant "Stryke" in "storm" color or the LAPG BDU pant "urban OPS Tactical Pant" in gray color. A short-sleeved (item #ES-CS412) or long-sleeved (item #ES-BP00003) polo shirt in black. This will be worn with black boots.

1046.3.5 BICYCLE UNIT UNIFORM
The Bicycle Unit uniform consists of the department approved polo shirt and dark navy blue cargo shorts, or a department approved dark navy blue bicycle riding pant, with black tennis shoes. All appropriate safety gear shall be worn when riding. The Department approved inclement weather hat may be worn when not riding a patrol bicycle.

1046.3.6 SPECIALIZED UNIT UNIFORM
The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as SWAT, Motor Officers, Recruit Training Officer (RTO) assigned to the Academy, and other specialized assignments.

1046.3.7 FOUL WEATHER GEAR
The Manual of Uniforms and Equipment lists the authorized uniform jacket and rain gear.

1046.4 INVESTIGATIONS ALTERNATIVE UNIFORM FOR SCU/VCU
Approved alternative uniform from March 1 to October 31:

**Shirt:** 5.11 Performance Polo s/s Black #71049-019. MPD Star Badge "Left Front" No sleeve or back logos. Name: right front thread color "#1811, 1/2 inch block front all caps". Undershirts worn shall be black.

**Pants:** 5.11 Fast-tac Urban Pant, straight fit. Charcoal gray #74461-018.
Uniform Regulations

Approved alternative uniform can be worn from November 1 to February 28 only at the discretion of the Investigations Captain or the Assistant Division Commander.

1046.5 INSIGNIA AND PATCHES

(a) Shoulder Patches - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, one-half inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.

(b) Service stripes, stars, etc. - Service stripes and other indicators for length of service may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform. The bottom of the service stripe shall be sewn the width of one and one-half inches above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only. (1) service stripe is authorized for every five years of full-time service. Prior part-time service is not applicable. A service stripe may be added to a shirt if the employee is within six months of a fifth anniversary date. Reserve police officers may wear one service stripe for every five years of reserve service.

(c) The regulation nameplate, or an authorized embroidered nameplate, shall be worn at all times while in uniform. The nameplate shall display, at minimum, the employee’s last name. The employee may also include the first initial on the nameplate. The nameplate shall be centered above the right pocket flap, located at the top edge of the pocket seam.

(d) When a jacket is worn, the nameplate or an authorized sewn on cloth nameplate shall be affixed to the jacket in the same manner as the uniform, leather jackets excluded.

(e) Assignment Insignias - Assignment insignias, (SWAT, FTO, etc.) may be worn as approved by the Chief of Police. Only one special assignment pin may be worn on the shirt.

(f) Flag Pin - A flag pin may be worn, centered above the nameplate.

(g) Badge - The department issued badge, or an authorized silk screen or sewn on cloth replica, must be worn and visible at all times while in uniform.

(h) Rank Insignia - The designated insignia indicating the employee’s rank must be worn at all times while in uniform. The Chief of Police may authorize exceptions.

1046.5.1 MOURNING BADGE
Uniformed employees shall wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

(a) An officer of this department - From the time of death until midnight on the 14th day after the death.
Uniform Regulations

(b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
(c) Funeral attendee - While attending the funeral of an out of region fallen officer.
(d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
(e) As directed by the Chief of Police.

1046.6 CIVILIAN ATTIRE
There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary.

(a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.
(b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button style shirts with a collar, slacks or suits that are moderate in style.
(c) All female administrative, investigative, and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses, or suits which are moderate in style.
(d) The following items shall not be worn on duty:
   1. T-shirt alone
   2. Open toed sandals or thongs
   3. Swimsuit, tube tops, or halter-tops
   4. Spandex type pants or see-through clothing
   5. Distasteful printed slogans, buttons or pins
(e) Variations from this order are allowed at the discretion of the Chief of Police or designee when the employee’s assignment or current task is not conducive to the wearing of such clothing.
(f) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Modesto Police Department or the morale of the employees.

1046.7 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS
Unless specifically authorized by the Chief of Police, Modesto Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Modesto Police Department to do any of the following (Government Code §§ 3206 and 3302):

(a) Endorse, support, oppose, or contradict any political campaign or initiative.
(b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
Uniform Regulations

(c) Endorse, support, or oppose, any product, service, company or other commercial entity.

(d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

1046.8 RETIREE BADGES
The Chief of Police may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Modesto Police Department. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Officer CCW Endorsement Policy in this manual.

A badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words "Retired" clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the Modesto Police Department and will be revoked in the event of misuse or abuse (Penal Code § 538d).

1046.9 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES
Modesto Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Manual of Uniforms and Equipment or by the Chief of Police or designee.

Modesto Police Department employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Manual of Uniforms and Equipment or by the Chief of Police or designee.

1046.10 REVISIONS
Adopted October 1, 2014
- Revised March 1, 2017
- Revised March 1, 2018
- Revised September 1, 2019
- Revised November 1, 2020
- Revised September 1, 2021
1048.1 PURPOSE AND SCOPE
The Police Cadet performs a variety of administrative and relatively minor enforcement duties under general supervision. Assignments could include: non-sworn patrol functions, parking enforcement, animal control assistance, fingerprint collection assistance, evidence assistance, and other support assignment.

1048.1 ORIENTATION AND TRAINING
Newly hired cadets will receive an orientation of the organization and facilities before reporting to their first assignment. On-the-job training will be conducted in compliance with the Cadet Training Manual. Training sessions will be scheduled as needed to train cadets for as many assignments as possible within the Department.

1048.2 EDUCATION REQUIREMENTS
Cadets are required to have the equivalent to high school graduation or are currently enrolled in high school in good standing with the expectation of graduation. Cadets are encouraged to be enrolled in college courses during their employment. Efforts will be made to accommodate those courses.

1048.2 CADET UNIFORMS
Each cadet will be provided two uniforms meeting the specifications described in the Manual of Uniforms and Equipment.

1048.3 PROGRAM COORDINATOR
The Cadet program will be overseen by a designated Police Civilian Supervisor. The PCS and his or her designee will deploy the Cadets based on the needs of the department; oversee their evaluations, and be the point of contact for the Cadets within the Department

1048.3 ROTATION OF ASSIGNMENTS
Rotating job assignments should occur on a regular basis to enhance the career development for each cadet. Department needs and concerns will take precedence over individual considerations with the final decision resting with the designated Police Civilian Supervisor and his or her designee.

In general, senior cadets will be assigned to positions requiring more technical skill or responsibility, as well as serving to train cadets for new assignments or those newly hired.
1048.4 PERFORMANCE EVALUATIONS
Performance evaluations for all cadets shall be completed at the three, six and nine month mark as well as after their first year while on probation. Upon successful completion of probation, cadets will be evaluated on an annual basis to assess their current job performance.
Department Badges

1052.1 PURPOSE AND SCOPE
The Modesto Police Department badge and uniform patch as well as the likeness of these items and the name of the Modesto Police Department are property of the Department and their use shall be restricted as set forth in this policy.

1052.2 POLICY
The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

1052.2.1 FLAT BADGE
Sworn officers, with the written approval of the Chief of Police may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

(a) An officer may sell, exchange, or transfer the flat badge he/she purchased to another officer within the Modesto Police Department with the written approval of the Chief of Police.

(b) Should the flat badge become lost, damaged, or otherwise removed from the officer’s control, he/she shall make the proper notifications as outlined in the Policy Manual 700.

(c) An honorably retired officer may keep his/her flat badge upon retirement.

(d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

1052.2.2 CIVILIAN PERSONNEL
Badges and departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Parking Control, Police Clerk).

(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.
1052.2.3 RETIREE UNIFORM BADGE
Upon honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

1052.3 UNAUTHORIZED USE
Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and civilian uniformed employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons that would bring discredit upon the department; 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.

1052.4 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 Modesto Police Department. The following modifications shall be included:
   1. The text on the badge 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.
Temporary Modified-Duty Assignments

1054.1 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.

1054.2 POLICY
Subject to operational considerations, the Modesto 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.

1054.3 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 Modesto 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.

1054.4 PROCEDURE
Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.
Temporary Modified-Duty Assignments

Employees seeking a temporary modified-duty assignment should submit a written request to their Division Commanders or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

(a) An assessment of the nature and probable duration of the illness or injury.
(b) The prognosis for recovery.
(c) The nature and scope of limitations and/or work restrictions.
(d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
(e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Division Commander will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Department of Human Resources 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 Division Commander, with notice to the Chief of Police.

1054.5 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 Division Commander.

1054.5.1 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 Division Commander that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.
1054.5.2 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 Division Commander of the status and performance of employees assigned to temporary modified duty.

(b) Notifying the Division Commander and ensuring that the required documentation facilitating a return to full duty is received from the employee.

(c) Ensuring that employees returning to full duty have completed any required training and certification.

1054.6 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.

1054.7 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.

1054.7.1 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.

1054.8 PROBATIONARY EMPLOYEES
Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified duty. Refer to the applicable MOU to determine probation extension terms.

1054.9 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.

1054.10 REVISIONS
Adopted October 1, 2014

• Revised May 1, 2020
• Revised September 1, 2020
Employee Speech, Expression and Social Networking

1057.1 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.

1057.1.1 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.

1057.2 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 Modesto 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.

1057.3 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 Modesto 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.

1057.4 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 Modesto 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 Modesto Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Modesto 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 transportsations 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 Modesto 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 Modesto Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

(h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:

1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).

2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1057.4.1 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 Modesto Police Department or identify themselves in any way that could be reasonably perceived as representing the Modesto 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 Modesto 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).

1057.5 PRIVACY EXPECTATION
Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) that is accessed, transmitted, received, or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

The Department shall not require an employee to disclose a personal user name or password for accessing personal social media or to open a personal social website; however, the Department may request access when it is reasonably believed to be relevant to the investigation of allegations of work-related misconduct (Labor Code § 980).

1057.6 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.

1057.7 TRAINING
Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.
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1057.8 OFFICIAL BUSINESS
Employees who have received authorization by the Chief of Police or his designee are exempt from this policy while acting in the course and scope of their official duties.

1057.9 REVISIONS
Revised October 1, 2014
- Adopted June 1, 2019
Line-of-Duty Deaths

1058.1 PURPOSE AND SCOPE
The purpose of this policy is to provide guidance to members of the Modesto Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member’s survivors.

The Chief of Police may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

1058.1.1 DEFINITIONS
Definitions related to this policy include:

**Line-of-duty death** - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a civilian member during the course of performing their assigned duties.

**Survivors** - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1058.2 POLICY
It is the policy of the Modesto 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.

1058.3 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 Stanislaus Regional 9-1-1.

   1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).

(b) The Watch Commander should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.

(c) If the member has been transported to the hospital, the Watch Commander or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.
(d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve 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).

1058.4 NOTIFYING SURVIVORS
Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased member’s emergency contact information and make accommodations to respect the member’s wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member’s wishes.

The Chief of Police, Watch Commander or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Department Chaplain.

Notifying members should:

(a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.

(b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child’s age, maturity and current location (e.g., small children at home, children in school).

(c) Plan for concerns such as known health concerns of survivors or language barriers.

(d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.

(e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.

(f) If making notification at a survivor’s workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.

(g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.

(h) Assist the survivors with meeting childcare or other immediate needs.
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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 survivor’s names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.

(m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Modesto Police Department members may be apprised that survivor notifications are complete.

1058.4.1 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.

1058.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.
1058.6 LIAISONS AND COORDINATORS
The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

(a) Department Liaison.
(b) Hospital Liaison.
(c) Survivor Support Liaison.
(d) Critical Incident Stress Management (CISM) coordinator.
(e) Funeral Liaison.
(f) Mutual aid coordinator.
(g) Benefits Liaison.
(h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

1058.6.1 DEPARTMENT LIAISON
The Department Liaison should be a Division Commander or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member’s survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison’s responsibilities include, but are not limited to:

(a) Directing the other liaisons and coordinators in fulfilling survivors’ needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
(b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
(c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
(d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
(e) Coordinating all official law enforcement notifications and arrangements.
(f) Making necessary contacts for authorization to display flags at half-mast.
(g) Ensuring that department members are reminded of appropriate information—sharing restrictions regarding the release of information that could undermine future legal proceedings.
(h) Coordinating security checks of the member’s residence as necessary and reasonable.
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(i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

1058.6.2 HOSPITAL LIAISON
The Hospital Liaison should work with hospital personnel to:

(a) Arrange for appropriate and separate waiting areas for:
   1. The survivors and others whose presence is requested by the survivors.
   2. Department members and friends of the deceased member.
   3. Media personnel.

(b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member’s survivors or Modesto Police Department members (except for members who may be guarding the suspect).

(c) Ensure that survivors receive timely updates regarding the member before information is released to others.

(d) Arrange for survivors to have private time with the member, if requested.
   1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
   2. The Hospital Liaison should accompany the survivors into the room, if requested.

(e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.

(f) If applicable, explain to the survivors why an autopsy may be needed.

(g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member’s residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

• Arranging transportation for the survivors back to their residence.

• Working with investigators to gather and preserve the deceased member’s equipment and other items that may be of evidentiary value.

• Documenting his/her actions at the conclusion of his/her duties.

1058.6.3 SURVIVOR SUPPORT LIAISON
The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member’s Division Commander. The following should be considered when selecting the Survivor Support Liaison:
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- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member’s supervisor and/or coworkers. The deceased member’s partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

(a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.

(b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.

(c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.

(d) Providing assistance with travel and lodging arrangements for out-of-town survivors.

(e) Returning the deceased member’s personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
   1. Items should not be delivered to the survivors until they are ready to receive the items.
   2. Items not retained as evidence should be delivered in a clean, unmarked box.
   3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
   4. The return of some personal effects may be delayed due to ongoing investigations.

(f) Assisting with the return of department-issued equipment that may be at the deceased member’s residence.
   1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors’ wishes.

(g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.

(h) Coordinating with the department’s 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.
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(j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.

(k) Introducing survivors to prosecutors, victim’s assistance personnel and other involved personnel as appropriate.

(l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).

(m) Inviting survivors to department activities, memorial services or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

1058.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief of Police or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the CISM coordinator include, but are not limited to:

(a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:

1. Members involved in the incident.
2. Members who witnessed the incident.
3. Members who worked closely with the deceased member but were not involved in the incident.

(b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive CISM support as appropriate and possible.

(c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death.

(d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available CISM and counseling services and assisting with arrangements as needed.
Line-of-Duty Deaths

(e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

1058.6.5 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.

1058.6.6 MUTUAL AID COORDINATOR
The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

(a) Traffic control during the deceased member’s funeral.

(b) Area coverage so that as many Modesto Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Mutual Aid and Outside Agency Assistance Policy.
1058.6.7 BENEFITS LIAISON
The Benefits Liaison should provide survivors with information concerning available benefits and assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

(a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).

(b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
   1. Public Safety Officers’ Benefits (PSOB) Programs.
   2. Public Safety Officers’ Educational Assistance (PSOEA) Program.
   3. Social Security Administration.
   4. Department of Veterans Affairs.

(c) Researching and assisting survivors with application for state and local government survivor benefits.
   1. Education benefits (Education Code § 68120)
   2. Health benefits (Labor Code § 4856)
   3. Worker’s compensation death benefit (Labor Code § 4702)

(d) Researching and assisting survivors with application for other survivor benefits such as:
   1. Private foundation survivor benefits programs.
   2. Survivor scholarship programs.

(e) Researching and informing survivors of support programs sponsored by police associations and other organizations.

(f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
   1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.

(g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.

(h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

1058.6.8 FINANCE COORDINATOR
The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:
Line-of-Duty Deaths

(a) Establishing methods for purchasing and monitoring costs related to the incident.

(b) Providing information on finance-related issues, such as:
   1. Paying survivors’ travel costs if authorized.
   2. Transportation costs for the deceased.
   3. Funeral and memorial costs.
   4. Related funding or accounting questions and issues.

(c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member’s survivors.

(d) Providing accounting and cost information as needed.

1058.7 PUBLIC INFORMATION OFFICER
In the event of a line-of-duty death, the department’s PIO should be the department’s contact point for the media. As such, the PIO should coordinate with the Department Liaison to:

(a) Collect and maintain the most current incident information and determine what information should be released.

(b) Ensure that department members are instructed to direct any media inquiries to the PIO.

(c) Prepare necessary press releases.
   1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
   2. Ensure that important public information is disseminated, such as information on how the public can show support for the Department and deceased member’s survivors.

(d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.

(e) Respond, or coordinate the response, to media inquiries.

(f) If requested, assist the member’s survivors with media inquiries.
   1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.

(g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.

(h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member’s survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should ensure that media are notified when survivor notifications have been made.
**Line-of-Duty Deaths**

**1058.8 DEPARTMENT CHAPLAIN**

The Department chaplain may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

**1058.9 INVESTIGATION OF THE INCIDENT**

The Chief of Police shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

**1058.10 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.

**1058.11 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.

**1058.12 REVISIONS**

Adopted September 1, 2016
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
## MODESTO POLICE DEPARTMENT
### Critical Incident Notification Guide
Watch Commander Responsibilities

| Event Type                             | Chief of Police | Asst. Police Chief | Ops Captain | ISD Captain | Support Captain | Command Staff | CRU (SWAT & CIT) | City Executive Staff | MPD All Personnel | ISD VCU Sergeant | Traffic Sergeant | Internal Affairs | PIO | District Attorney | Psychologist | MPMA or MPOA | Area Commander(s) | Peer Support Team | Chaplains | Watch Report |
|----------------------------------------|-----------------|--------------------|-------------|-------------|-----------------|--------------|-----------------|---------------------|-------------------|-----------------|----------------|----------------|----------------|-----|-----------------|--------------|--------------|-------------------|-----------------|----------|-------------|
| Homicide                               |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Attempted Homicide                     |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Officer-Involved Shooting              |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Officer-Involved Critical Incident     |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Fatal or Potential Fatal Traffic Accident |               |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Death or Serious Injury of PD Employee |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| School Lockdown                        |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Arrest of City Employee or Public Official |             |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| 245 PC Shooting (hit)                  |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Aircraft Crash                         |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| In-Custody Death                       |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Hate Crime                             |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Barricaded, Armed Suspect or Hostage Situation |             |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Civil Disturbance / Riot / Protest     |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Serious City Liability Incident        |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Event that Causes Major Media Focus    |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |
| Potential Newsworthy Event             |                 |                   |             |             |                 |              |                 |                     |                  |                |                |                |                |     |                 |              |              |                   |                 |          |             |

**NOTE:**
- Email to **MPD Command Staff** goes to Lts, Capts, Asst Chief & Chief (Easy way to notify all command staff of issues.)
- Email to **Exec Group** goes to all City Executives (emails should be brief, generic and not include suspect names, exact locations, etc.)

- **= Mandatory Telephone Notification**  **= Mandatory Email Notification**  **= Consider Notifying**  **= Enter in Watch Report**
Hate Crime Checklist.pdf
## HATE CRIME CHECKLIST

### Victim Type:
- Individual
  - Legal name (Last, First):
  - Other Names used (AKA):   
- School, business or organization
  - Name:   
  - Type: (e.g., non-profit, private, public school)
  - Address:   
- Faith-based organization
  - Name:   
  - Faith:   
  - Address:   

### Target of Crime (Check all that apply):
- Person   
- Private property   
- Public property   
- Other   

### Nature of Crime (Check all that apply):
- Bodily injury   
- Threat of violence   
- Property damage   
- Other crime:   
  - Property damage - estimated value   

### Type of Bias
(Check all characteristics that apply):
- Disability   
- Gender   
- Gender identity/expression   
- Sexual orientation   
- Race   
- Ethnicity   
- Nationality   
- Religion   
- Significant day of offense (e.g., 9/11, holy days)   
- Other:   
  - Specify disability (be specific):   

### Actual or Perceived Bias – Victim’s Statement:
- Actual bias [Victim actually has the indicated characteristic(s)].   
- Perceived bias [Suspect believed victim had the indicated characteristic(s)].   
  - If perceived, explain the circumstances in narrative portion of Report.

### Reason for Bias:
- Do you feel you were targeted based on these characteristics?   
  - Yes   
  - No   
  - Explain in narrative portion of Report.
- Do you know what motivated the suspect to commit this crime?   
  - Yes   
  - No   
  - Explain in narrative portion of Report.
- Do you feel you were targeted because you associated yourself with an individual or a group?   
  - Yes   
  - No   
  - Explain in narrative portion of Report.
- Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?   
  - Yes   
  - No   
  - Describe in narrative portion of Report.
- Are there indicators the suspect is affiliated with a criminal street gang?   
  - Yes   
  - No   
  - Describe in narrative portion of Report.

### Bias Indicators (Check all that apply):
- Hate speech   
- Acts/gestures   
- Property damage   
- Symbol used   
- Written/electronic communication   
- Graffiti/spray paint   
- Other:   
  - Describe with exact detail in narrative portion of Report.

### Relationship Between Suspect & Victim:
- Suspect known to victim?   
  - Yes   
  - No   
- Nature of relationship:   
- Length of relationship:   
  - If Yes, describe in narrative portion of Report

### History
- Prior reported incidents with suspect? Total #   
- Prior unreported incidents with suspect? Total #   
- Restraining orders?   
  - Yes   
  - No   
  - If Yes, describe in narrative portion of Report
- Type of order:   
  - Order/Case#

### Weapons
- Weapon(s) used during incident?   
  - Yes   
  - No   
  - Type:   
- Weapon(s) booked as evidence?   
  - Yes   
  - No   
- Automated Firearms System (AFS) Inquiry attached to Report?   
  - Yes   
  - No

POST 05/19 (Based on LAPD’s Hate Crime Supplemental Report, used with permission)
## HATE CRIME CHECKLIST

### EVIDENCE

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
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</thead>
<tbody>
<tr>
<td>Witnesses present during incident?</td>
<td></td>
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<tr>
<td>Evidence collected?</td>
<td></td>
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<tr>
<td>Photos taken?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total # of photos:</td>
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<td></td>
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<tr>
<td>Taken by:</td>
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<td>D#:</td>
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<td></td>
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<tr>
<td>Serial #:</td>
<td></td>
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<tr>
<td>Statements taken?</td>
<td></td>
<td></td>
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<tr>
<td>Recordings:</td>
<td></td>
<td></td>
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<tr>
<td>Suspect identified:</td>
<td></td>
<td></td>
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<tr>
<td>Known to victim</td>
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</tbody>
</table>

### OBSERVATIONS

#### VICTIM
- Tattoos
- Shaking
- Unresponsive
- Crying
- Scared
- Angry
- Fearful
- Calm
- Agitated
- Nervous
- Threatening
- Apologetic
- Other observations: __________________________

#### SUSPECT
- Tattoos
- Shaking
- Unresponsive
- Crying
- Scared
- Angry
- Fearful
- Calm
- Agitated
- Nervous
- Threatening
- Apologetic
- Other observations: __________________________

### ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
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</thead>
<tbody>
<tr>
<td>Has suspect ever threatened you?</td>
<td></td>
<td></td>
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<tr>
<td>Has suspect ever harmed you?</td>
<td></td>
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<tr>
<td>Does suspect possess or have access to a firearm?</td>
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<tr>
<td>Are you afraid for your safety?</td>
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<tr>
<td>Do you have any other information that may be helpful?</td>
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### MEDICAL

<table>
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<tr>
<th>Victim</th>
<th>Suspect</th>
<th>Description</th>
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<tr>
<td>☐</td>
<td>☐</td>
<td>Declined medical treatment</td>
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<tr>
<td>☐</td>
<td>☐</td>
<td>Will seek own medical treatment</td>
</tr>
<tr>
<td>☐</td>
<td>☐</td>
<td>Received medical treatment</td>
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</table>

<table>
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<tr>
<th>Authorization to Release Medical Information, Form 05.03.00, signed?</th>
<th>Yes</th>
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<tr>
<th>Paramedics at scene?</th>
<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
<td>Name(s)/ID #:</td>
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<tr>
<td>Hospital:</td>
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<tr>
<td>Jail Dispensary:</td>
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<td></td>
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<tr>
<td>Physician/Doctor:</td>
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<tr>
<td>Patient #:</td>
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### Resources offered at scene:
- Yes
- No

### Officers

<table>
<thead>
<tr>
<th>Officer (Name/Rank)</th>
<th>Date</th>
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<tr>
<th>Supervisor Approving (Name/Rank)</th>
<th>Date</th>
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POST 05/19
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